Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK

In The
SUPREME COURT OF THE UNITED STATES
October Term, 2009

MICHAEL D. GOODSON,
Petitioner,

v.

THE UNITED STATES,
Respondent,

On Petition For Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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PETITION FOR WRIT OF CERTIORARI

***R. Scott Shearer**
TBA No. 00786464
929 Preston, Suite 200
Houston, TX 77002
(713) 254-5629
(713) 224-2889 FAX

**Counsel of Record*

QUESTIONS PRESENTED FOR REVIEW

(1) Does a district court plainly err by removing a defendant's counsel of choice based upon the mere accusation that counsel had committed minor ethical lapses and where no hearing adjudicating such accusations ever took place?

(2) Does a court of appeals abuse its discretion by failing to allow a defendant to file a *pro se* brief when his court appointed attorney refuses to raise meritorious grounds of error the defendant specifically asks him to present?

LIST OF ALL PARTIES

Pursuant to SUP. CT. R. 14.1(b), the undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case:

R. Scott Shearer - Counsel for Petitioner

929 Preston, Ste. 200
Houston, TX 77002

Michael D. Goodson - Petitioner

FCI Beaumont Low
5560 Knauth Road
Beaumont, TX 77705

Melissa J. Annis - Counsel for the Government

United States Attorney's Office
910 Travis, Suite 1500
Houston, TX 77002

Hon. Lynn N. Hughes - District judge

U. S. District Court for the Southern
District of Texas - Houston Division
515 Rusk
Houston, TX 77002

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The opinion of the Fifth Circuit Court of Appeals is not reported. It is included in the appendix to this writ.

STATEMENT OF JURISDICTION

The judgment of the court of appeals was entered on December 22, 2009. This Court has jurisdiction pursuant to 28 U.S.C. §1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

The Fifth Amendment to the United States Constitution reads in pertinent part:

> "[no] person shall be . . . deprived of life, liberty, or property, without due process of law . . . ."

UNITED STATES CONSTITUTION, Amendment V.

The Sixth Amendment to the United States Constitution reads in pertinent part:

> "In all criminal prosecutions, the accused shall enjoy the right to . . . have

the assistance of counsel for his defense."

UNITED STATES CONSTITUTION, Amendment VI.

STATEMENT OF THE CASE

On March 31, 2006 Petitioner Michael D. Goodson was arrested and charged with the offense of conspiracy to defraud the United States. (Exhibit 2 at entry no. 10). The United States District Court for the Southern District of Texas had original jurisdiction in this case pursuant to 18 U.S.C. §3231. On the same day, Petitioner Goodson made his first court appearance before the magistrate judge. (Exhibit 2 at entry no. 11). Petitioner Goodson appeared without counsel. The federal public defender initially represented Petitioner. (Exhibit 2 at entry no. 15). Soon thereafter, on April 6, 2007, Petitioner appeared in court with retained counsel Abraham M. Fisch. (Exhibit 2 at entry no. 18). On April 19, 2006 the Honorable Lynn N. Hughes entered an order removing Attorney Fisch as counsel for Petitioner. (Exhibit 2 at entry 24). Attorney Fisch had yet to appear before the Respondent on Petitioner's case. (Exhibit 2 at entry nos. 10-24). The Respondent terminated Attorney Fisch's representation, "for the reasons stated on the record in Criminal Case H-01-443." (Exhibit 2 at entry 24).[1]

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[1] Attorney Abraham Fisch represented a client named Benjamin W. Bergh in an unrelated criminal action before Judge Hughes in 2002. Upon conclusion of the case, Judge Hughes *sua sponte*

The district court issued its order *sua sponte*, as the Government made no motion to disqualify Attorney Fisch. (Exhibit 3 at p. 47). Attorney Fisch filed a Motion to Quash and Dismiss the district court's order dated April 19, 2006. (Exhibit 2 at entry 34). The district court convened a hearing on April 25, 2006. (Exhibit 3). Petitioner Goodson was present. (Exhibit 3 at p. 29). In an acrimonious and hostile colloquy, the district court continually upbraided Attorney Fisch in the presence of Petitioner Goodson. Judge Hughes took umbrage at the fact that Petitioner had sworn he was indigent in a financial affidavit for appointment of counsel, and then retained Attorney Fisch a few days later. (Exhibit 3 at p. 3-4). Based upon his experience with Attorney Fisch some four years earlier, Judge Hughes also alleged that Attorney Fisch does not like to: (1) show up on time; (2) confer with his clients in advance; and (3) pick up pre-sentence reports from the probation

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ordered Attorney Fisch to return all the attorneys fees paid to him by the defendant Benjamin W. Bergh. (ORDER of June 12, 2002). Mr. Bergh had not requested the return of his attorney's fees and the Government had filed no motion for sanctions prior to Judge Hughes' order. Subsequently, Judge Hughes modified its order to reflect the actual amount of the fees paid. (ORDER of June 18, 2002). After Attorney Fisch filed his response to Judge Hughes' orders, Judge Hughes held a sanctions hearing on December 13, 2002. At the sanctions hearing, Judge Hughes rescinded his orders to refund the entire fees and, instead, ordered Attorney Fisch to pay one-thousand dollars [$1000.00] to the Texas State Bar Unauthorized Practice of Law Committee as sanctions.

department. (Exhibit 3 at p. 4, 12). Judge Hughes claimed that having Attorney Fisch on the case was, "an automatic habeas corpus." (Exhibit 3 at p. 27). Judge Hughes also claimed that Attorney Fisch was "unqualified" to be in the Judge Hughes's court (Exhibit 3 at p. 24) and accused Attorney Fisch of being a bad lawyer. (Exhibit 3 at p. 47). At one point Judge Hughes referred to Attorney Fisch as a "Pettifogger".[2] (Exhibit 3 at p. 49). Undersigned counsel pointed out that Attorney Fisch has never been found to have rendered ineffective assistance of counsel. (Exhibit 3 at p. 33). Soon thereafter, Judge Hughes insulted Attorney Fisch's deceased mother and compared Attorney Fisch's logic to that of Charles Manson. (Exhibit 3 at p. 49). When Attorney Fisch objected to being compared to Charles Manson, Respondent threatened to put Attorney Fisch in jail. (Exhibit 3 at p. 45). Undersigned counsel objected on Sixth Amendment grounds to the district court's removal of Attorney Fisch as counsel for Petitioner. Undersigned counsel pointed out that Attorney Fisch was in possession of a letter of good standing from the Southern District. (Exhibit 3 at p. 48). Judge Hughes claimed the certificate of good standing was procured through "fraud".[3] (Exhibit 3

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[2] A "pettifogger" is a lawyer whose methods are petty, underhanded, or disreputable. The word is synonymous with "shyster".

[3] Only by resorting to truly tortured logic could one say that Attorney Fisch had committed an ethical act worthy of disbarment on this ground. Assuming *arguendo* that Attorney Fisch did not disclose having received two public reprimands (by definition public records) when he reapplied in 1996 to the local admissions committee, Judge Hughes seems to

at p. 48). At the conclusion of the hearing, Judge Hughes indicated his intent to send a letter around to the other judges notifying them that Attorney Fisch was no longer in good standing. (Exhibit 3 at p. 52).

Subsequently, the magistrate court then attempted to appoint an attorney as Petitioner's counsel. Petitioner Goodson refused the appointment and renewed his request to appear with Attorney Fisch. (Exhibit 2 at entry 65). Petitioner Goodson stated in his letter that, after careful consideration, he felt Attorney Fisch, "will do a good job."

On June 26, 2006 this Court decided the case of *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006), confirming the Sixth Amendment right to counsel of one's choosing. Undersigned counsel had cited the district court to the *Gonzalez-Lopez* lower court decision in his Motion to Quash and Dismiss. Four days later, on June 30, 2006, Judge Hughes reversed himself and issued an "Order on Reconsideration" allowing attorney Abraham M. Fisch to represent Petitioner Goodson. (Exhibit 2 at docket entry 66). Some eight months passed with Attorney Fisch representing Petitioner until February 28, 2007, at which time a pre-trial conference was held in anticipation of a jury trial scheduled for March 6, 2007. At this pre-trial conference, Judge Hughes again ordered Attorney Fisch removed from the Petitioner's case. (Exhibit 2 at entry 173). Judge Hughes claimed Attorney

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suggest that Attorney Fisch is worthy of disbarment ten years later in 2006, though a public reprimand itself is a lesser sanction than disbarment, and is probably insufficient to prevent one from being admitted to the bar of the Southern District even when disclosed.

Fisch's application for renewal had been "denied" by the admissions committee and produced a document stating as such. In fact, the admissions committee had only made a recommendation that it be denied. (Exhibit 4). Attorney Fisch then appealed to the Chief Judge of the Southern District. (Exhibit 5). The Chief Judge has taken no action and no hearing has been set or afforded Attorney Fisch. Attorney Fisch has never been afforded a hearing on the merits before any district judge, laison judge, or the chief judge.

At a subsequent hearing, the district court explained its reasons for removing Attorney Fisch as follows:

> Mr. Fisch is not a member of the Court. He has not applied for admission pro hac vice. He probably would not be eligible, being a resident practitioner. His admission would be conditioned on his application for admission, which has just been denied. So, it's – it's a complicated problem.
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> . . . .
>
> Mr. Fickman, I don't know whether you know but I didn't think he should have been allowed to represent him, in the first place. And we went through that. And I just finally gave up until he got disbarred because, at the levels of performance I have seen, regularly, that essentially it would be building in an ineffective assistance of counsel claim no matter what happened. And there's

> more to the administration of justice than playing games like that, but I relented – and not because of the Supreme Court case, just because it became a mini trial in its own right and I decided it was less trouble to go ahead and do it with Fisch. But other things have caught up with him. So, he may not do it. He properly may not do it. So, you're it.

Petitioner Goodson then filed a mandamus in the Fifth Circuit, which was denied. See *In re Goodson*, No. 07-20497 (5th Cir. 2007)(original proceeding). Petitioner Goodson refused all attempts to appoint him counsel in the district court and proceeded to trial *pro se*. Petitioner Goodson was convicted on all eight counts (four were severed out) and received a sentence of two-hundred-forty [240] months incarceration. (Exhibit 2 at entry 285). Goodson appealed and was assigned court-appointed counsel. Petitioner Goodson notified his court-appointed counsel of his desire to present his *Gonzalez-Lopez* claims on appeal.[4] (Exhibit 6). When his court-appointed counsel refused to do so, Petitioner filed a motion in the Fith Circuit to dismiss his court-appointed counsel and to proceed *pro se*. (Exhibit 6). The Fifth Circuit overruled the motion. (Exhibit 8). Petitioner filed a *pro se* brief

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[4] Petitioner's court-appointed counsel was also notified of the *Gonzalez-Lopez* issues by Attorney Fisch and notified of the existence of the mandamus raising those claims by the undersigned counsel.

anyway raising the *Gonzalez-Lopez* claims. The Fifth Circuit Court of Appeals *affirmed* Petitioner's appeal on December 22, 2009 without considering Petitioner's *pro se* brief. (Exhibit 1). This Petition for Writ of Certiorari is timely filed within 90 days of the entry of the judgment. *See* SUP. CT. R. 13.1.

SUMMARY OF THE ARGUMENT

The district court plainly erred[5] by removing Petitioner's counsel of choice based upon whimsical accusations of attorney misconduct. Petitioner's counsel was never afforded a hearing on the accusations and Petitioner's counsel was allowed to practice in other courts in the same district subsequent to his removal from Petitioner's case. The district court's removal of Attorney Fisch denied Petitioner his Sixth Amendment right to counsel of choice under *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006).

The Fifth Circuit Court of Appeals abused its discretion[6] by overruling Petitioner's motion to proceed *pro se*. Petitioner specifically directed his

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[5] This Court may review plain error even though not presented to the court of appeals. *Silber v. United States*, 370 U.S.717 (1962). Petitioner would not need to invoke this Court's authority to review plain error had he been allowed to proceed *pro se* on appeal.

[6] Whether to allow a pro se defendant to participate in the appellate process is reviewed for an abuse of discretion. *Cf. Price v. Johnston*, 334 U.S. 266, 184 (1948).

court-appointed counsel to raise his *Gonzalez-Lopez* claims. When his court-appointed attorney failed to do so, Petitioner moved to dismiss court-appointed counsel and proceed *pro se*. Petitioner made the court of appeals aware of his *Gonzalez-Lopez* issues and sought *pro se* status at the earliest practical opportunity. Nevertheless, the Fifth Circuit overruled his motion. This denied Petitioner due process of law. Petitioner did not have an adequate opportunity to present his claims in the context of the appellate process.

ARGUMENT

(1) Application of law to the facts.

A. Petitioner had a right to counsel of his choosing.

One of the rights we enjoy as citizens in a democratic society is the privilege of seeking the advice of counsel. In *Powell v. Alabama,* 287 U.S. 45, 53 S.Ct. 55 (1932), this Court held the right to be heard carries with it the constitutional baggage of being heard by counsel. The right to counsel secured under the Sixth Amendment includes the right to counsel of choice as one element of this basic guarantee. *United States v. Gonzalez-Lopez*, 548 U.S. 140, 152 (2006); See *Wheat v. United States*, 486 U.S. 153, 159 (1988); *Powell v. Alabama*, 287 U.S. 45 (1932). The Sixth Amendment right to counsel of choice commands, not that a trial be fair, but that a

particular guarantee of fairness be provided - to wit, that the accused be defended by the counsel he believes to be best. *United States v. Gonzales-Lopez*, 399 F.3d 924, 929 (8th Cir. 2005), *aff'd*, 548 U.S. 140 (2006); see *Faretta v. California*, 422 U.S. 806, 819 (1975)("The Sixth Amendment . . . grants to the accused personally the right to make his defense . . . . for it is he who suffers the consequences if the defense fails."). The constitutionally-guaranteed right to counsel has been described as, "a right of the highest order." *United States v. Proctor*, 166 F.3d 396, 402 (1st Cir. 1999); see *United States v. Hobson*, 672 F.2d 825, 828 (11th Cir.), *cert. denied*, 459 U.S. 906, 103 S. Ct. 208 (1982)("The interest in permitting a criminal defendant to retain counsel of his choice is strong, and deserves great respect.").

In *United States v. Mendoza-Salgado*, the Tenth Circuit found that, "Lawyers are not fungible, and often the most important decision a defendant makes in shaping his defense is his selection of an attorney." *United States v. Mendoza-Salgado*, 964 F.2d 993, 1015 (10th Cir. 1992); *accord United States v. Laura*, 607 F.2d 52, 56 (3d Cir. 1979). Where a defendant is able to privately retain counsel, "the choice of counsel rests in his hands, not in the hands of the state." *United States v. Collins*, 920 F.2d 619, 625 (10th Cir. 1990), *cert. denied*, 111 S.Ct. 2022 (1991).

Like the denial of the right to self-representation and the denial of the right to counsel, the denial of the right to be represented by one's selected attorney "infects the entire trial process" from "beginning to end." *United States v. Gonzales-Lopez*, 399 F.3d 924, 929 (8th Cir. 2005), *aff'd*, 548 U.S. 140 (2006). The erroneous deprivation of the right to counsel of choice qualifies as structural error,

is not subject to harmless-error analysis, and entitles a defendant to automatic reversal on appeal. *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006). Harm is presumed because it "casts such doubt on the fairness of the trial process, that it can never be considered harmless error." *Penson v. Ohio*, 488 U.S. 75, 88 (1988)(citing *Satterwhite v. Texas*, 486 U.S. 249, 256 (1988).

B. A district court does not have inherent power to remove a defendant's chosen counsel.

A presumption exists that a defendant is entitled to counsel of his choice. *Wheat v. United States*, 486 U.S. 153, 164 (1988). As a general rule, "defendants are free to employ counsel of their own choice and the courts are afforded little leeway in interfering with that choice." *United States v. Lewis*, 759 F.2d 1316, 1326 (8th Cir. 1985). Courts may deprive defendants of their preferred counsel, "only where such drastic action is necessary to further some overriding social or ethical interest." *United States v. Collins*, 920 F.2d 619, 626 (10th Cir. 1990), *cert. denied*, 111 S.Ct. 2022 (1991).

Absent certain exceptions that are inapplicable to this case, a trial judge does not have the inherent power to remove defense counsel. *Harling v. United States*, 387 A.2d 1101, 1104-1105 (D.C. Cir. 1978). The logic behind such an absence of authority is well reasoned. Such inherent power would lead to an arbitrary misuse of authority and compromise the adversary process. Quoting from an opinion by the California Supreme Court:

> If the advocate must labor under threat that, at any moment, if his argument or advocacy should incur the displeasure or lack of immediate comprehension by the trial judge, he may be summarily relieved as counsel on a subjective charge of incompetency by the very trial judge he is attempting to convince, his advocacy must of necessity be most guarded and lose much of its force and effect.

Smith v. Superior Court of Los Angeles County, P.2d 65, 74; 68 Cal. Rptr. 1, 10 (Cal. 1968).

A district court does not have the inherent power to remove trial counsel simply because in his subjective opinion counsel is incompetent. According to *United States v. Kitchin*:

> **[A]cts which appear to violate the ABA Code or other accepted standards of legal ethics do not confer upon the trial court unfettered discretion to disqualify the attorney selected by a party.** An attorney may be disqualified only when there is 'a reasonable possibility that some specifically identifiable impropriety' actually occurred and, in light of the interests underlying the standards of ethics, the social need for ethical practice outweighs the party's right to counsel of his choice.

United States v. Kitchin, 592 F.2d 900 (5th Cir. 1979) citing *Woods v. Covington County Bank*, 537 F.2d 804, 810 (5th Cir. 1976)(emphasis added).

The Fifth Circuit has adopted the Eleventh Circuit's analysis in *Schlumberger Techs., Inc. v. Wiley*, 113 F.3d 1553 (11th Cir. 1997) when considering the revocation of an attorney admitted *pro hac vice*. *United States v. Nolen*, 472 F.3d 362 (5th Cir. 2006). Although the *Nolen* and *Schlumberger Techs.* cases involved *pro hac vice* questions, the analysis should be instructive in the present case. In *Schlumberger Techs.*, the Eleventh Circuit noted that cases involving revocation of *pro hac vice* status generally fall into one of two categories: (1) those involving attorney conduct that challenges the court's authority or threatens disruption of court proceedings, and (2) those involving allegedly unethical attorney conduct that does not threaten the orderly administration of justice. *Schlumberger Techs., Inc. v. Wiley*, 113 F.3d 1553, 1559 (11th Cir. 1997). According to *Schlumberger Techs.*, in the second class of revocation cases, "**the court may not simply rely on a general inherent power to admit and suspend attorneys**," but "**must clearly identify a specific Rule of Professional Conduct which [sic] is applicable to the relevant jurisdiction and must conclude that the attorney violated that rule.**" *Schlumberger Techs., Inc. v. Wiley*, 113 F.3d 1553, 1561 (11th Cir. 1997)(emphasis added).

In *In re Evans*, 524 F.2d 1004 (5th Cir. 1975), the Fifth Circuit set forth both the procedural and substantive requirements that must be undertaken before denying an attorney the ability to

practice in the district court. Although *In re Evans* also arose in the context of a motion to appear *pro hac vice*, the procedural protections afforded local counsel should be at least as great, if not greater, than those granted to a lawyer from another state. According to *In re Evans*, if the district court has evidence of behavior that it believes justifies a denial of admission *pro hac vice*, the court must provide the attorney with adequate notice of all alleged misbehavior or unethical behavior that will be charged against him and the court must set a hearing on the issue. Specific allegations must be made; general accusations about an attorney's demeanor are insufficient. The hearing must be on the record and present the attorney with adequate opportunity to defend himself and his professional reputation. *In re Evans*, 524 F.2d 1004, 1008 (5th Cir. 1975). According to *In re Evans*:

> **Admission to a state bar creates a presumption of good moral character that cannot be overcome merely by the whims of the District Court.** A member in good standing of a state bar may not be denied the privilege to appear except on a showing that in any legal matter, whether before the particular district court or in another jurisdiction, he has been guilty of unethical conduct of such a nature as to justify disbarment of a lawyer admitted generally to the bar of the court.

In re Evans, 524 F.2d 1004, 1007-8 (5th Cir. 1975); see also *United States v. Nolen*, 472 F.3d 362 (5th Cir. 2006); *Schlumberger Techs., Inc. v. Wiley*, 113 F.3d 1553, 1159 (11th Cir. 1997)(emphasis added).

In re Evans, *Nolen*, and *Schlumberger Techs.* make clear that the alleged improprieties leveled against the lawyer must be of such a degree that they would justify disbarment of the lawyer admitted generally to the bar of the court. Petitioner submits that the past behavior of his attorney falls fall short of this standard. Attorney Fisch's alleged acts of misconduct indisputably belong in the second *Schlumberger Techs.* category. Attorney Fisch did not challenge the court's authority or threaten disruption of court proceedings. Attorney Fisch, as of the writing of this writ of certiorari, is a member of the State Bar of Texas, is licensed, and is in good standing. Currently, there are no other disciplinary proceedings pending against him.

The district court's complaints appear to involve what might fairly be described as general "unlawyerlike conduct"; a standard that has been held by the Fifth Circuit to be too broad and, therefore, susceptible to abuse. *In re Evans*, 524 F.2d 1004, 1008, n. 1 (5th Cir. 1975). Before being removed as Petitioner's chosen counsel the first time, attorney Fisch was not cited for contempt, reprimanded, fined, or otherwise disciplined for any action he took in representing Petitioner Goodson. All of the alleged misdeeds of Attorney Fisch dredged up by the district court concerned acts occurring in attorney Fisch's previous cases from years earlier. The worst misdeed occurring in the presence of the district court in 2002 was Attorney Fisch's failure to

pick up a pre-sentence report and failure to appear in court during a time when Attorney Fisch claimed he was ill. At no time did the district court allege any ethical violation that would likely result in Attorney Fisch's disbarment by the State Bar of Texas. If the district court truly believed that Attorney Fisch had committed some error worthy of disbarment, the district court should have initiated a complaint with the Chief Judge of the Southern District or with the State Bar of Texas years earlier. See *Thornton v. General Motors Corp.*, 136 F.3d 450, 454 (5th Cir. 1998)("where sanctions are imposed under Rule 11(c)(1)(B) by a district court on its own initiative, neither the award of attorney's fees **nor the suspension from practice before the court constitute a valid sanction** . . . . when a district court finds that a disciplinary sanction more severe than admonition, reprimand, or censure under Rule 11 is warranted, **it should refer the matter to the appropriate disciplinary authorities.**") (emphasis added).

Likewise, Attorney Fisch was not cited for contempt, reprimanded, fined, sanctioned, or otherwise disciplined before being removed as Petitioner's counsel the second time. The only noteworthy occurrence was a mere recommendation made by a secret committee[7] that Attorney Fisch's application for re-admission should not be renewed. (Exhibit 3).

The district court wholly failed to consider the Petitioner's Sixth Amendment rights before twice

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[7] Despite asking for the members' names, Attorney Fisch has been told that the members of the admission committee serve in secret.

removing his counsel of choice.[8] See *United States v. Nolen*, 472 F.3d 362 (5th Cir. 2006). The district judge was not in a position to make qualitative decisions regarding Attorney Fisch as a lawyer, where the allegations did not arise to the level of disbarment. See *In re Evans*, 524 F.2d 1004, 1007-8 (5th Cir. 1975). Regardless of the merits of the complaints leveled at Attorney Fisch by the district court, the district court should have allowed him to remain as Petitioner's chosen counsel until a hearing was conducted and a final ruling issued. Until and unless there is a final order of disbarment, Attorney Fisch remains eligible to practice in the district court. According to the local rules of the Southern District of Texas, Attorney Fisch was entitled to certain due process procedures before being denied the ability to practice. Rules 4(B), 5(A)-(G) Rules of Discipline United States District Court Southern Dist. Of Texas (2000). (Exhibit 7). *Cf. Gathe v. Housing Authority of Lafayette*, 2006 U.S. Dist. Lexis 91114 (U.S. Dist. Ct. Western Dist. Louisiana 2006).

In *Gathe*, an attorney from Illinois filed a motion to appear *pro hac vice* along with a notice that she was subject to a current disciplinary proceeding in her home state. The district court, citing the Fifth Circuit's opnion in *In re Evans*, found that, inasmuch as the disciplinary proceedings in Illinois were ongoing, the court was, "not in the position to determine" whether the attorney's conduct "rises to the level of disbarment". *Gathe*, *supra*. The district

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[8] The district court boldly stated its disagreement with *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006), arguing that the dissent, rather than the majority, was the correct opinion.

court then continued the case until the Illinois proceedings were concluded. *Gathe, supra.*

The district court also failed to consider lesser sanctions other than removal of Attorney Fisch as Petitioner's counsel. In order to assuage the district court's concerns and in order to assure Attorney Fisch's future compliance with local rules, undersigned counsel suggested that district court take some other, less drastic, action than removing Petitioner's counsel of choice. The district court could have imposed lesser sanctions such as a bond, an order, or a threatened contempt in order to secure Attorney Fisch's future compliance with local rules. The district court refused to do so. In this respect, the court ran afoul of previous case law from the Fifth Circuit. Where there is a reasonable possibility that some impropriety might occur in the future, other, less harsh, sanctions are more appropriate than disqualification of a defendant's chosen counsel. See *United States v. Snyder*, 707 F.2d 139, n. 4. (5th Cir. 1983) citing *Norton v. Tallahassee Memorial Hospital*, 689 F.2d 938, 941, n. 4 (11th Cir.1982). Disqualification of an attorney should only be a measure of last resort. *United States v. Diozzi*, 807 F.2d 10, 12 (1st Cir. 1986).

The district court's order disqualifying Petitioner's counsel is particularly erroneous given the fact that it was possible to try the Petitioner's case with his chosen counsel well before any disciplinary hearing was even convened. Petitioner was set for trial with Attorney Fisch on March 6, 2007. (Exhibit 1 at docket entry no. 159). As of the writing of this writ of certiorari, Attorney Fisch has yet to be afforded a hearing on the district court's allegations. At a minimum, the district court should have granted Petitioner his requested continuance as

the district court did in *Gathe* until such time as the allegations of misconduct were heard and resolved.

Moreover, Petitioner's counsel was allowed to practice in other courts in the same district subsequent to his removal from Petitioner's case. (Exhibit 7 - attached affidavit of Attorney Fisch).

Thus, the district court exceeded its jurisdiction and plainly erred by arbitrarily removing Petitioner Goodson's attorney of choice.

(C) The Court of Appeals erred by not allowing Petitioner to raise his *Gonzalez-Lopez* claims where his court-appointed attorney refused to do so.

The Fifth Circuit Court of Appeals abused its discretion by overruling Petitioner's motion to proceed *pro se*. Petitioner specifically directed his court-appointed counsel to raise his *Gonzalez-Lopez* claims. (Exhibit 6). When his court-appointed attorney failed to do so, Petitioner moved to dismiss court-appointed counsel and proceed *pro se*. (Exhibit 6). Petitioner made the court of appeals aware of his *Gonzalez-Lopez* issues and sought *pro se* status at the earliest practical opportunity. (Exhibit 6). Petitioner filed his motion to proceed *pro se* months before the case was submitted. This was a sufficiently clear, unequivocal, and timely request to have his claims heard. See *Faretta v. California*, 422 U.S. 806, 807 (1975)(The Court in *Faretta* noted that the defendant requested to represent himself "[w]ell before the date

of trial" and "weeks before trial." making a clear and unequivocal statement to represent himself.).

The Fifth Circuit overruled Petitioner's motion on October 28, 2009. (Exhibit 8). Petitioner then filed a *pro se* brief anyway, which raised his *Gonzalez-Lopez* claims in addition to those points raised by his court-appointed attorney. The Fifth Circuit Court of Appeals *affirmed* Petitioner's appeal on December 22, 2009 without considering Petitioner's *pro se* brief.

The procedures used in deciding appeals must comport with the demands of the Due Process and Equal Protection Clauses of the Constitution. *Evitts v. Lucy*, 469 U.S. 387 (1985). The right to counsel on a direct criminal appeal is a due process right. Cf. *Miller v. Keeney*, 882 F.2d 1428, 1431 n.4 (9th Cir. 1989). An indigent defendant is entitled to the appointment of counsel to assist him on his first appeal. *Entsminger v. Iowa*, 386 U.S. 748, 751 (1967).

The law does not require appointed counsel to raise every available non-frivolous issue. *Jones v. Barnes*, 463 U.S. 745 (1983). The law should require, however, that a court-appointed attorney raise those issues that the appellant himself believes are the most likely to result in relief being granted. A lawyer should acquisce in the client's choice of which non-frivolous issues to pursue. *Jones v. Barnes*, 463 U.S. 745, 754 (1983) (BLACKMUN, J., concurring). It is the defendant that should have the right to decide which non-frivolous issues should be presented on appeal. *Jones v. Barnes*, 463 U.S. 745, 758 (1983) (BRENNAN, J., dissenting).

This is not a case of an unsophisticated defendant asking his court-appointed counsel to advance dubious claims on appeal. Rather,

Petitioner was simply asking his court-appointed attorney to advance those arguments he previously brought forth to the same court of appeals in a writ of mandamus.

In the present case, the *Gonzalez-Lopez* arguments that Petitioner attempted to advance were clearly stronger than those issues that court-appointed counsel ultimately presented to the court of appeals. Court appointed-counsel simply ignored the requests of the Petitioner. Under *Jones v. Barnes* Petitioner could not force his court-appointed counsel to raise the *Gonzalez-Lopez* arguments. His only option, therefore, was to proceed *pro se*.

The court of appeals should have allowed Petitioner to do so. Petitioner made his request early enough not to be a hindrance to the appeal. He also identified his points of error and explained that the reason he wished to proceed *pro se* was because his court-appointed counsel failed to raise the issue. (Exhibits 6, 7). By failing to allow Petitioner to proceed *pro se*, the circuit court effectively deprived Petitioner of a meaningful appeal. It is the Petitioner who must bear the consequences of any affirmance and it is only just that his choice of which points of error to pursue be honored. Respect for the individual is the lifeblood of the law. See *Illinois v. Allen*, 397 U.S. 337, 350-351 (1970) (BRENNAN, J., concurring). To force a lawyer's decisions on a defendant "can only lead him to believe that the law contrives against him." See *Faretta*, 422 U.S. at 834.

(2) Reasons for granting the writ.

The Fifth Circuit Court of Appeals has entered a decision in conflict with the decisions of another United States court of appeals on the same important matter; has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power; has decided an important question of federal law that has not been, but should be, settled by this Court; and has decided an important federal question in a way that conflicts with relevant decisions of this Court

The district court's actions in twice removing Petitioner's counsel constitute a judicial usurpation of power. A district court should not be free to play ping-pong with the Sixth Amendment. It is the Petitioner Goodson who will, "bear the personal consequences of a conviction" and not the district judge. See *United States v. Davis*, 285 F.3d 378, 384 (5th Cir. 2002) *cert. denied*, *White v. United States*, 537 U.S. 1066, 123 S. Ct. 618 (2002). Petitioner Goodson has, "a right to preserve actual control over his defense." *Id.*

The actions of the district court render the right to counsel meaningless and wholly eviscerates this Court's decision in *Gonzalez-Lopez*. The case at bar has a bearing on every criminal case filed in the country. Now it appears that all a district judge need do to avoid having a difficult or unpleasant lawyer appear before it is to make a general accusation of attorney misconduct. This Court should take the opportunity to reaffirm the principles espoused in *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006)

and strongly reject the district court's actions in this case.

After his conviction, Petitioner notified the court of his desire to appeal. Petitioner's appeal, like most appeals in the federal system, was prosecuted by a court-appointed lawyer. This case, therefore, has far reaching consequences for the public and for the sytem of appointing lawyers. At a time when the public's confidence in court-appointed lawyers is at an all time low, this Court should take the opportunity to reaffirm the rights of the individual defendant, wealthy or poor, when it comes to managing the defense of a criminal case in which the defendant alone will suffer the consequences of any adverse ruling.

CONCLUSION

The district court plainly erred by denying Petitioner his counsel of choice. The Fifth Circuit Court of Appeals abused its discretion by refusing to allow Petitioner to present his *Gonzalez-Lopez* claims *pro se*. Based on the foregoing, Petitioner prays that this Petition for Writ of Certiorari be granted. The Court may wish to consider summary reversal of the decision of the Fifth Circuit Court of Appeals.

Respectfully submitted,

By:

R. Scott Shearer
TBA No. 00786464
929 Preston, Suite 200
Houston, TX 77002
(713) 254-5629
(713) 224-2889 FAX

Counsel of Record

Supreme Court, U.S.
FILED

No. 10-592 MAR 22 2010

OFFICE OF THE CLERK

In The
SUPREME COURT OF THE UNITED STATES
October Term, 2009

MICHAEL D. GOODSON,
Petitioner,

v.

THE UNITED STATES,
Respondent,

On Petition For Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

APPENDIX

***R. Scott Shearer**
TBA No. 00786464
929 Preston, Suite 200
Houston, TX 77002
(713) 254-5629
(713) 224-2889 FAX

**Counsel of Record*

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-20760

United States Court of Appeals
Fifth Circuit
FILED
December 22, 2009

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MICHAEL D GOODSON, also known as Mike Goodson

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-06-98

Before JOLLY, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

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* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Convicted, *inter alia*, of mail and wire fraud, Michael D. Goodson appeals his conviction and sentence. Primarily, his contentions revolve around his proceeding *pro se*. AFFIRMED.

I.

Prior to trial in July 2007, Goodson retained Abraham Fisch as his attorney. Fisch, however, was unable to represent Goodson because the United States District Court for the Southern District of Texas denied his application [2] for renewal of admission to practice before that court. Therefore, the district court appointed Robert Fickman to replace Fisch as Goodson's counsel.

Subsequently, Goodson advised the district court by letter that he desired Fisch to represent him, would not accept any attorney other than Fisch, and requested the court to inform Fickman not to contact him again. At a pretrial conference in April 2007, Goodson reiterated his position: he wanted Fisch as

counsel or no one. Consequently, the district court dismissed Fickman as Goodson's counsel.

Prior to trial, the district court held a *Faretta* hearing and again questioned Goodson about his decision to proceed *pro se*. *See generally Faretta v. California*, 422 U.S. 806 (1975) (holding defendant in state criminal trial has constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so). During the *Faretta* hearing, the court repeatedly admonished Goodson concerning the dangers of proceeding at trial without counsel. The court also questioned him about his educational background and experience, establishing that he possessed sufficient knowledge and understanding to represent himself. As discussed *infra*, Goodson informed the court that he did not intend to present a defense. The district court appointed James Alston as standby counsel and informed Goodson that Alston would not try the case

but, instead, would act as a "walking lawbook" for Goodson at trial.

Goodson proceeded *pro se* at trial and, consistent with what he had advised the court at his *Faretta* hearing, did not question witnesses or otherwise present evidence. He was convicted on 25 July 2007 on nine counts of conspiracy and mail and wire fraud. At sentencing on 22 October 2008, Goodson, still proceeding *pro se*, was sentenced, *inter alia*, to 293 months' imprisonment. [3]

II.

Goodson contends: the district court erred at trial by excusing Government witnesses without first asking him whether he desired to question them; he did not knowingly and intelligently waive his Sixth Amendment right to counsel at sentencing; and, the district court erred in applying the two-level enhancement under Guideline § 2B1.1(b)(13)(A). Goodson failed, however, to present these contentions

in district court. Therefore, each is reviewed only for plain error, as further discussed *infra*. *See United States v. Mondragon-Santiago*, 564 F.3d 357, 361 (5th Cir.), *cert. denied*, 130 S. Ct. 192 (2009).

To establish reversible plain error, Goodson must show a clear or obvious error that affected his substantial rights. *E.g.*, *United States v. Baker*, 538 F.3d 324, 332 (5th Cir. 2008), *cert. denied*, 129 S. Ct. 962 (2009). If reversible plain error is established, we still have discretion to correct it and, generally, will do so only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

A.

Goodson's assertion that the district court erred through its excusing without-asking procedure is premised on Goodson's Sixth Amendment right to self-representation, which includes a defendant's right to control his case. *See McKaskle v. Wiggins*, 465 U.S. 168, 178 (1984). Goodson maintains that,

because the court excused the witnesses as it did, the jury was given the impression that Goodson was not in such control.

This is a claim of structural error, not subject to harmless-error review. *See id.* at 177 n.8 ("[T]he right of self-representation is a right that when exercised usually increases the likelihood of a trial outcome unfavorable to the [4] defendant, its denial is not amenable to 'harmless error' analysis".). Nevertheless, review is only for plain error because, as noted, Goodson did not preserve the issue in district court. *See United States v. Phipps*, 319 F.3d 177, 189 n.14 (5th Cir. 2003) ("An error not susceptible to harmless error review is nevertheless susceptible to plain error review if the defendant did not object at trial.").

Goodson does not claim he attempted to question the Government witnesses but was denied the opportunity. Instead, he maintains: even though,

at the *Faretta* hearing, he stated his intention to the district court *not* to question any witnesses, the district court erred by not asking him *in the presence of the jury* if he desired to do so.

The district court's failure to make that inquiry did not, *inter alia*, constitute clear or obvious error. Following Goodson's statement at the *Faretta* hearing that he did *not* intend to question Government witnesses, the court told Goodson that, if he decided to question them, all he needed to do was stand and the court would recognize him. Therefore, because Goodson deliberately chose *not* to question any witness, the district court did not plainly err by failing to ask Goodson if he desired to do so. Along that line, the record shows Goodson, *inter alia*, utilized his standby counsel and gave his own closing argument, which would indicate to the jury that he was in control of his case.

B.

As discussed, at the *Faretta* hearing, the district court determined that Goodson had knowingly and voluntarily waived his right to counsel. Goodson has not challenged the validity of his waiver for trial purposes, nor did he object to continuing *pro se* at sentencing. Because Goodson failed to preserve in district [5] court his assertion that he did not knowingly and intelligently waive his right to counsel at sentencing, our review is only for plain error.

As shown, Goodson was fully aware of his right to counsel during trial. Further, he made no attempt before or at sentencing to request counsel.

Several circuits have held that a waiver of counsel at trial carries over to sentencing. *See United States v. McBride*, 362 F.3d 360, 367 (6th Cir. 2004) (collecting cases); *but see United States v. Ellerbe*, 372 F.3d 462, 467-69 (D.C. Cir. 2004) (remanding to

district court to determine whether defendant intended his waiver of counsel at trial to carry over to sentencing). Therefore, the district court's decision not to obtain a second waiver of counsel for sentencing was not clear or obvious error.

C.

Concerning his challenge to the two-level enhancement under Guideline § 2B1.1(b)(13)(A), Goodson concedes review is only for plain error. Nevertheless, he claims reversible plain error.

Under Guideline § 2B1.1(b)(13)(A), if a defendant derives more than $1,000,000 in gross receipts from one or more *financial institutions*, his base offense level should be increased two levels. According to Goodson, there was an insufficient factual basis to support finding he obtained from a financial institution the $1,555,048 listed in the presentence investigation report.

Goodson bases this on the definition of financial institution applicable at the time of his sentencing, which did not specifically include mortgage lenders. That definition, however, contained the catch-all provision "any similar entity whether or not insured by the federal government". U.S.S.G. § 2B1.1, cmt. n.1 (2007). A mortgage lender could easily be construed as a "similar entity". *E.g.*, [6] *United States v. Edelkind*, 467 F.3d 791, 801-02 (1st Cir. 2006) (holding a private mortgage lender could be considered a "financial institution" for purposes of the two-level enhancement under Guideline § 2B1.1(b)(13)(A)). Therefore, the district court did not commit clear or obvious error by applying the two-level enhancement.

III.

For the forgoing reasons, the judgment is AFFIRMED.

DOCKET SHEET IN CAUSE NO. 08-20760

U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CRIMINAL DOCKET FOR CASE #: 4:06-cr-00098-1

Case title: USA v. Goodson et al	Date Filed: 03/30/2006 Date Terminated: 11/09/2008

Assigned to: Judge Lynn N. Hughes

Defendant (1)

Michael D Goodson *TERMINATED: 11/09/2008* *also known as* Mike Goodson *TERMINATED: 11/09/2008*	represented by	**Michael D Goodson** 02492-088 FDC Houston PO Box 526255 In Custody Houston, TX 77052 PRO SE **Abraham Moses Fisch** District Court Information 1305 Prairie Ste 300 Houston, TX 77002 713-222-8777 Fax: 713-222-7556 fax Email: dabronxjew@yahoo.com *TERMINATED:*

03/12/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

David Adler
David Adler PC
6750 W Loop S
Ste 120
Bellaire, TX 77401
713-666-7576
Fax: 713-665-7070
Email:
davidadler1@hotmail.com
TERMINATED:
06/30/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

James Ray Alston
Attorney At Law
914 Preston Street
Ste 3 N
Houston, TX 77002
713-228-1400
Fax: 713-228-1401
Email:
jalston@houstoncrimedefe
nse.com
TERMINATED:
07/25/2007
LEAD ATTORNEY
ATTORNEY TO BE

NOTICED
Designation: CJA Appointment

Joe A Salinas , III
Attorney at Law
PO Box 1305
Houston, TX 77251-1305
713-227-7700
Fax: 713-227-4510
Email: jas3lawtx@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Peter Joseph Bray
Assistant Federal Public Defender
440 Louisiana St
Ste 1350
Houston, TX 77002-1634
713-718-4600
Email: peter_bray@fd.org
TERMINATED: 04/06/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or Community Defender Appointment

Robert James Fickman
Attorney at Law
440 Louisiana

Ste 800
Houston, TX 77002
713-655-7400
Fax: 713-224-6008
Email:
rfickman@fickmanlaw.com
TERMINATED: 04/10/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts	**Disposition**
CONSPIRACY TO DEFRAUD THE UNITED STATES (1)	Dismissed
CONSPIRACY TO DEFRAUD THE UNITED STATES (1s)	Dismissed
CONSPIRACY TO COMMIT MAIL	Dismissed

FRAUD AND WIRE FRAUD (1ss)	
CONSPIRACY (1sss)	Dismissed
Conspiracy (1ssss)	240 months on Count(s) 1ssss, 2ssss, 5ssss-6ssss, 7ssss, each count to run concurrently; 53 months on cts 8ssss-9ssss, 11ssss-12ssss each count to run concurrently.: Cts 1ssss,2ssss,5ssss,6ssss,7ssss consecutive to cts 8ssss,9ssss,11ssss,12ssss for a total sentence of 293 months. 3 yrs SRT on each count to run concurrently. $3,060,790.30 restitution. $100 special assessment on each count - remitted on govt mtn.
FRAUDS AND SWINDLES - MAIL FRAUDS (2s-6s)	Dismissed
MAIL FRAUD AND AIDING AND	Dismissed

ABETTING (2ss-7ss)	
MAIL FRAUD (2sss-6sss)	Dismissed
MAIL FRAUD (2ssss)	240 months on Count(s) 1ssss, 2ssss, 5ssss-6ssss, 7ssss, each count to run concurrently; 53 months on cts 8ssss-9ssss, 11ssss-12ssss each count to run concurrently.: Cts 1ssss,2ssss,5ssss,6ssss,7ssss consecutive to cts 8ssss,9ssss,11ssss,12ssss for a total sentence of 293 months. 3 yrs SRT on each count to run concurrently. $3,060,790.30 restitution. $100 special assessment on each count - remitted on govt mtn.
MAIL FRAUD (3ssss-4ssss)	Dismissed
MAIL FRAUD (5ssss-6ssss)	240 months on Count(s) 1ssss, 2ssss, 5ssss-6ssss, 7ssss, each count to run concurrently; 53 months on cts 8ssss-9ssss, 11ssss-12ssss each count to run concurrently.: Cts 1ssss,2ssss,5ssss,6ssss,7ssss consecutive to cts 8ssss,9ssss,11ssss,12ssss

	for a total sentence of 293 months. 3 yrs SRT on each count to run concurrently. $3,060,790.30 restitution. $100 special assessment on each count - remitted on govt mtn.
FRAUD BY WIRE, RADIO, OR TELEVISIO N (7s-9s)	Dismissed
WIRE FRAUD (7sss-13sss)	Dismissed
	240 months on Count(s) 1ssss, 2ssss, 5ssss-6ssss, 7ssss, each count to run concurrently; 53 months on cts 8ssss-9ssss, 11ssss-12ssss each count to run concurrently.: Cts
WIRE FRAUD (7ssss-9ssss)	1ssss,2ssss,5ssss,6ssss,7ss ss consecutive to cts 8ssss,9ssss,11ssss,12ssss for a total sentence of 293 months. 3 yrs SRT on each count to run concurrently. $3,060,790.30 restitution. $100 special assessment on each count - remitted on govt mtn.
WIRE FRAUD	Dismissed

AND AIDING AND ABETTING (8ss-10ss)	
LAUNDERING OF MONETARY INSTRUMENTS (10s)	Dismissed
WIRE FRAUD (10ssss)	Dismissed
MONEY LAUNDERING - INTERSTATE COMMERCE (11s-13s)	Dismissed
LAUNDERING OF MONETARY INSTRUMENTS CONSPIRACY (11ss)	Dismissed
WIRE FRAUD (11ssss-12ssss)	240 months on Count(s) 1ssss, 2ssss, 5ssss-6ssss, 7ssss, each count to run concurrently; 53 months on cts 8ssss-9ssss, 11ssss-

	12ssss each count to run concurrently.: Cts 1ssss,2ssss,5ssss,6ssss,7ssss consecutive to cts 8ssss,9ssss,11ssss,12ssss for a total sentence of 293 months. 3 yrs SRT on each count to run concurrently. $3,060,790.30 restitution. $100 special assessment on each count - remitted on govt mtn.
LAUNDERING OF MONETARY INSTRUMENTS AND AIDING AND ABETTING (12ss-14ss)	Dismissed
WIRE FRAUD (13ssss)	Dismissed
LAUNDERING OF MONETARY INSTRUMENTS (14sss)	Dismissed
Highest Offense Level (Opening)	

Felony

Terminated Counts	**Disposition**
None	

Highest Offense Level (Terminated)	
None	

Complaints	**Disposition**
None	

Respondent

Anthony Fisch	represented by	**R Scott Shearer** Attorney at Law 929 Preston Ste 200 Houston, TX 77002 713-254-5629 Email: shearerlegal@yahoo.com *LEAD ATTORNEY* *ATTORNEY TO BE NOTICED* *Designation: Retained*

Plaintiff

USA represented by **Financial Litigation**
U S Attorney's Office
P O Box 61129
Houston, TX 77208
713-567-9000
Fax: 713-718-3391 fax
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

US Marshal - H
515 Rusk
10th Floor
Houston, TX 77002
713-718-4800
Fax: 713-718-4848
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

US Pretrial Svcs - H
515 Rusk
6th Floor
Houston, TX 77002
713-250-5218
Fax: 713-250-5666
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

US Probation - H

515 Rusk
2nd Floor
Houston, TX 77002
713-250-5266
Fax: INS_prob1
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Melissa J Annis
Office of the US Attorney
PO Box 61129
Houston, TX 77208
713-567-9736
Fax: 713-718-3406
Email:
melissa.annis@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Martha A Minnis
Office of U S Attorney
P O Box 61129
Houston, TX 77208-1129
713-567-9348
Fax: 713-718-3305
Email:
martha.minnis@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/30/2006	1	INDICTMENT (The original indictment with the signature of the grand jury foreperson is on file under seal with the clerk) as to Michael D Goodson (1) count(s) 1, Nancy Booth (2) count(s) 1, filed. (jmarchand,) (Entered: 04/03/2006)
03/30/2006	2	AO 257 Information Sheet as to Michael D Goodson, filed.(jmarchand,) (Entered: 04/03/2006)
03/30/2006	4	US Attys Criminal Docket Sheet as to Michael D Goodson, Nancy Booth, filed.(jmarchand,) (Entered: 04/03/2006)
03/30/2006	5	ORDER FOR ISSUANCE OF Arrest WARRANT as to Michael D Goodson (Signed by Judge Frances H Stacy). Parties notified. (jmarchand,) (Entered: 04/03/2006)
03/30/2006	7	MOTION to Seal by USA as to Michael D Goodson, Nancy Booth, filed. (jmarchand,) (Entered: 04/03/2006)
03/30/2006	8	ORDER granting 7 Motion to Seal as to Michael D Goodson (1), Nancy Booth (2).(Signed by Judge Frances H Stacy.) Parties notified.(jmarchand,) (Entered: 04/03/2006)

03/31/2006	9	Minute Entry for proceedings held before Judge Frances H Stacy :BOND HEARING as to Michael D Goodson, Nancy Booth held on 3/31/2006, COUNSEL DETERMINATION HEARING as to Michael D Goodson, Nancy Booth held on 3/31/2006. Charles L Duke for Nancy Booth appointed., INITIAL APPEARANCE as to Michael D Goodson, Nancy Booth,(Deft informed of rights) held on 3/31/2006. Bond set for Deft 2 - $50,000.00 unsecured. Arraignment and Detention Hearing for Deft 1 set for 4/4/2006 at 10:00 am. Counsel Determination Hearing for Deft set for 4/3/2006 at 10:00 am. Appearances: Melissa Annis, Charles L Duke.(ERO:Yes) (Interpreter:No) Deft 1 remanded to custody Deft 2 continued on bond, filed.(jmarchand,) Modified on 4/3/2006 (jmarchand,). (Entered: 04/03/2006)
03/31/2006		Arrest of Michael D Goodson, Nancy Booth, filed. (jmarchand,) (Entered: 04/03/2006)
03/31/2006	11	ORDER OF DETENTION PENDING Detention Hearing as to Michael D Goodson . Detention Hearing set for 4/3/2006 at 10:00 am before Judge Frances Stacy.(

		Signed by Judge Frances H Stacy). Parties notified. (jmarchand,) (Entered: 04/03/2006)
04/03/2006	14	Minute Entry for proceedings held before Judge Frances H Stacy :COUNSEL DETERMINATION HEARING as to Michael D Goodson held on 4/3/2006. Federal Public Defender for Michael D Goodson appointed. Arraignment & Detention Hearing set 4/4/06 at 10:00am before Judge Frances Stacy. Appearances: Melissa Annis,. (ERO:Yes) (Interpreter:No) Deft remanded to Custody , filed.(espencer,) (Entered: 04/05/2006)
04/03/2006	15	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Federal Public Defender for Michael D Goodson (Signed by Judge Frances H Stacy). Parties notified. (espencer,) (Entered: 04/05/2006)
04/04/2006	16	Minute Entry for proceedings held before Judge Frances H Stacy :DETENTION HEARING as to Michael D Goodson held on 4/4/2006. Hearing Continued on 4/6/06 @ 2:00pm before Judge Frances Stacy. Arraignment set 4/6/06 @ 2:00pm before Judge Frances Stacy. Appearances:Peter Bray for FPD. Melissa

		Annis.(ERO:Yes) (Interpreter:No) Deft remanded to Custody , filed.(espencer,) (Entered: 04/05/2006)
04/06/2006	18	Minute Entry for proceedings held before Judge Frances H Stacy :DETENTION HEARING as to Michael D Goodson held on 4/6/2006. Hearing Continued on Deft Motion. Arraignment and Detention hearing set for 4/10/06 at 10 AM before Judge Stacy. FPD Allowed to Withdraw. Order of Temporary Detention continued. Appearances:Abraham Fisch. Melissa Annis.(ERO:Yes) (Interpreter:No) Deft remanded to Custody , filed.(jbradford,) (Entered: 04/10/2006)
04/06/2006		Attorney update in case as to Michael D Goodson. Attorney Abraham M Fisch for Michael D Goodson added. Attorney Peter Joseph Bray terminated. (jbradford,) (Entered: 04/10/2006)
04/06/2006		Attorney update: Attorney Abraham M Fisch for Michael D Goodson added. (dkelly,) (Entered: 04/17/2006)
04/10/2006	19	Minute Entry for proceedings held before Judge Calvin Botley :DETENTION HEARING as to Michael D Goodson held on 4/10/2006 Appearances:Anthony

		Fisch for Deft. Michael D. Goodson. Arraignment set for Wed. on 4/12/06 at 10:00 am. Melissa Annis. (Interpreter:NO) Deft remanded to Custody , filed.(mkallie,) (Entered: 04/12/2006)
04/11/2006	20	ORDER OF DETENTION PENDING Trial as to Michael D Goodson .(Signed by Judge Calvin Botley). Parties notified. (sguevara,) (Entered: 04/12/2006)
04/12/2006	21	Minute Entry for proceedings held before Judge Calvin Botley :ARRAIGNMENT as to Michael D Goodson (1) Count 1 held on 4/12/2006. Not Guilty on all counts. Jury requested. ETT: 5 days. Appearances: Melissa Annis, Abraham M Fisch.(ERO:yes) (Interpreter:n/a) Deft remanded to custody , filed.(ltien,) (Entered: 04/17/2006)
04/12/2006	22	WAIVER of Trial Limits by Michael D Goodson, filed.(ltien,) (Entered: 04/17/2006)
04/12/2006	23	SCHEDULING ORDER as to Michael D Goodson. ETT:5 days: Speedy Trial Limits Waived? yes: Dispositive and Non-Dispositive Motion Filing due by 4/20/2007 Responses due by 5/1/2006 Pretrial Conference set for 6/5/2006 at 02:30 PM in

		Courtroom 11C before Judge Lynn N. Hughes Proposed Voir Dire due by 6/6/2006 Jury Selection set for 6/13/2006 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes Jury Trial set for 6/13/2006 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes (Signed by Judge Calvin Botley). Parties notified. (ltien,) (Entered: 04/17/2006)
04/19/2006	24	ORDER for New Counsel as to Michael D Goodson. By 5/10/2006, Michael Goodson must retain new counsel. By May 1, 2006, Fisch must refund his attorney's fees to Michael Goodson for the reasons stated on the record in Criminal Case H-01-443. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 04/19/2006)
04/20/2006	25	MOTION for Disclosure of Records or Reports relating Facts or Data Underlying Expert Opinions by Michael D Goodson, filed. (kejones,) (Entered: 04/21/2006)
04/20/2006	26	MEMORANDUM in Support by Michael D Goodson re 25 MOTION for Disclosure , filed.(ejuarez,) (Entered: 04/21/2006)
04/20/2006	27	MEMORANDUM in Support by

		Michael D Goodson re 25 MOTION for Disclosure , filed.(kejones,) (Entered: 04/21/2006)
04/20/2006	28	MOTION for Discovery and Inspection by Michael D Goodson, filed. (Attachments: # 1 Proposed Order)(mmarch,) (Entered: 04/21/2006)
04/20/2006	30	MOTION to Compel Production of Specific Supplemental Exculpatory Kyles Information by Nancy Booth, filed. (Attachments: # 1 Proposed Order)(mmarch,) Modified on 4/21/2006 (dkelly,). (Entered: 04/21/2006)
04/24/2006	32	NOTICE OF SETTING as to Michael D Goodson. Motion Hearing set for 4/25/2006 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes re: motion to quash order for new counsel.(dkelly,) (Entered: 04/24/2006)
04/24/2006	33	MOTION for Bill of Particulars Anthony Fisch as to Michael D Goodson, filed. (Attachments: # 1 Proposed Order)(sguevara,) (Entered: 04/25/2006)
04/24/2006		Attorney update in case as to Michael D Goodson. Attorney Abraham M Fisch for Michael D Goodson added. (sguevara,)

		(Entered: 04/25/2006)
04/24/2006	34	MOTION to Dismiss, MOTION to Quash the Order for New Counsel of April 19, 2006 by Anthony Fisch as to Michael D Goodson, filed. (Attachments: # 1 Proposed Order)(sguevara,) (Entered: 04/25/2006)
04/25/2006		Minute Entry for HEARING held before Judge Lynn N. Hughes on 4/25/2006 re: 34 MOTION to Quash and to Dismiss the Order for New Counsel of April 19, 2006 as to Michael D Goodson. Order to be entered. Appearances: Melissa Annis f/ govt, Abraham M Fisch f/ deft, R Scott Shearer f/ A. Fisch.(Court Reporter: K. Metzger) Deft remanded to custody.(dkelly,) (Entered: 04/25/2006)
04/25/2006	35	ORDER Fisch's 34 MOTION to Quash and to Dismiss the Order for New Counsel of April 19, 2006, is denied. Fisch, who has also used the name Anthony Fisch, and R. Scott Shearer may advise Goodson, but they cannot appear in this action. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 04/26/2006)
04/25/2006	36	ORDER: By Friday, April 28, 2006, Abraham (Anthony) Fisch and R. Scott Shearer must

		disclose in writing disciplinary actions against them - including contempt and sanctions - to the State Bar of Texas and the Clerk of Court for the United States District Court for the Southern District of Texas.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 04/26/2006)
04/25/2006	37	ORDER: By Wednesday, May 3, 2006, Peter Bray as a favor to the court will speak with Michael D Goodson in person about the status of his selecting alternate counsel.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 04/26/2006)
04/25/2006	38	ORDER denying 33 Motion for Bill of Particulars as to Michael D Goodson (1).(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 04/26/2006)
04/28/2006	39	RESPONSE by R. Scott Shearer re 36 Order regarding Disclosure of Disciplinary Actions, filed.(ghassan,) (Entered: 05/01/2006)
04/28/2006	40	RESPONSE by Abraham M. Fisch re 36 Order regarding Disclosure of Disciplinary Actions, filed.(ghassan,) (Entered: 05/01/2006)

05/01/2006	41	RESPONSE by USA as to Michael D Goodson, Nancy Booth, filed.(Annis, Melissa) (Entered: 05/01/2006)
05/02/2006	42	NOTICE *(Selection of Alternate Counsel)* by Michael D Goodson as to Michael D Goodson, Nancy Booth, filed.(Bray, Peter) (Entered: 05/02/2006)
05/12/2006	44	Arrest Warrant issued 3/30/2006 Returned Executed on 3/31/2006 in case as to Michael D Goodson, filed. (mmarch,) (Entered: 05/15/2006)
05/15/2006	45	SUPERSEDING INDICTMENT (The original indictment with the signature of the grand jury foreperson is on file under seal with the clerk) as to Michael D Goodson (1) count(s) 1s, 2s-6s, 7s-9s, 10s, 11s-13s, Nancy Booth (2) count(s) 1s, 2s-6s, 7s-9s, 10s, 11s-13s, filed. (ncavazos,) (Entered: 05/17/2006)
05/15/2006	46	AO 257 Information Sheet as to Michael D Goodson, filed.(ncavazos,) (Entered: 05/17/2006)
05/15/2006	48	US Attys Criminal Docket Sheet as to Michael D Goodson, Nancy Booth, filed.(ncavazos,) (Entered: 05/17/2006)
05/17/2006	49	ORDER for Issuance of Notice of

		Superseding Indictmen as to Michael D Goodson Arraignment set for 5/23/2006 at 10:00 AM in Courtroom 701 before Magistrate Judge Mary Milloy.....(Signed by Judge Stephen Smith). Parties notified. (ncavazos,) (Entered: 05/17/2006)
05/22/2006	51	NOTICE OF RESETTING as to Michael D Goodson - regarding 49 Order for Issuance, Set Hearings. Arraignment set for 5/25/2006 at 10:00 AM in Courtroom 701 before Magistrate Judge Mary Milloy....., filed. (ncavazos,) (Entered: 05/22/2006)
05/24/2006	53	NOTICE of Resetting of Arraignment to 5/30/06 at 10:00 am by Michael D Goodson, Nancy Booth re 52 Notice of Resetting (FORMS,generates noticing) - Criminal, filed.(kejones,) Modified on 5/31/2006 (kejones,) (Entered: 05/25/2006)
05/30/2006	54	NOTICE by Michael D Goodson re 24 Order, , filed.(ejuarez,) (Entered: 05/30/2006)
05/30/2006	57	Minute Entry for proceedings held before Judge Mary Milloy :ARRAIGNMENT as to Nancy Booth (2) Count 1s,2s-6s,7s-9s,10s,11s-13s held on 5/30/2006. Not Guilty on all. Appearances: Melissa Annis, Charles L Duke,

		Abraham M Fisch.Trial set for 6/13/06 at 10:00. Deft Goodson cont'd to 5/31/06 at 9:45(ERO:YES) , filed.(ckrus,) (Entered: 06/02/2006)
05/31/2006	55	Unopposed MOTION to Certify Case as Complex by USA as to Michael D Goodson, Nancy Booth, filed. (Attachments: # 1 Proposed Order)(Annis, Melissa) (Entered: 05/31/2006)
05/31/2006		Attorney update in case as to Michael D Goodson. Attorney David Adler for Michael D Goodson added. (dkelly,) (Entered: 06/01/2006)
05/31/2006	58	Minute Entry for proceedings held before Judge Mary Milloy :COUNSEL DETERMINATION HEARING as to Michael D Goodson held on 5/31/2006. David Adler appted. A Fisch no longer representing this deft per Judge HughesAppearances: Melissa Annis.(ERO:YES) , filed.(ckrus,) (Entered: 06/02/2006)
05/31/2006		Attorney update in case as to Michael D Goodson. Attorney Abraham M Fisch terminated. (ckrus,) (Entered: 06/02/2006)
05/31/2006		Attorney update in case as to Michael D Goodson. Attorney R Scott Shearer terminated. (ckrus,

		) (Entered: 06/02/2006)
05/31/2006	59	Minute Entry for proceedings held before Judge Mary Milloy :ARRAIGNMENT as to Michael D Goodson (1) Count 1s,2s-6s,7s-9s,10s,11s-13s held on 5/31/2006. Not Guilty on ALL SS. Appearances: Melissa Annis.(ERO:ERO) Deft remanded to USM , filed.(ckrus,) (Entered: 06/02/2006)
06/01/2006	56	ORDER granting 55 Motion to Certify as Complex Case as to Michael D Goodson (1), Nancy Booth (2).(Signed by Judge Lynn N. Hughes.) Parties notified.(dkelly) (Entered: 06/01/2006)
06/02/2006	60	MOTION to Continue Trial by Michael D Goodson, filed. (Adler, David) (Entered: 06/02/2006)
06/05/2006	64	ORDER granting the motions to continue of Goodson and Booth re: 60 , 62 . Pretrial Conference reset for 7/31/2006 at 02:30 PM in Room 11122 before Judge Lynn N. Hughes. Jury Trial reset for 8/8/2006 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 06/05/2006)

06/06/2006	65	LETTER as to Michael D Goodson re: attorney choice , filed. (kejones,) (Entered: 06/06/2006)
06/30/2006	66	ORDER on Reconsideration: Fisch may represent Michael D Goodson. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 06/30/2006)
06/30/2006	67	ORDER on Reconsideration: David Adler is relieved of his appointment as to Michael D Goodson. Attorney David Adler terminated. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 06/30/2006)
07/18/2006	68	MOTION and Memorandum to Continue Trial by Michael D Goodson, filed. (kejones,) (Entered: 07/19/2006)
07/19/2006	69	ORDER granting 68 MOTION to Continue Trial as to Michael D Goodson, Nancy Booth. Motions due: 9/1/2006. Responses to Motions due: 9/15/2006. Proposed Voir Dire due: 10/6/2006. Pretrial Conference reset for 10/2/2006 at 02:30 PM in Room 11122 before Judge Lynn N. Hughes. Jury Trial reset for 10/17/2006 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 07/20/2006)

08/03/2006	70	TRANSCRIPT filed in case as to Michael D Goodson, Nancy Booth Hearing held on April 25, 2006 before Judge Lynn N. Hughes. Court Reporter: Kathy Metzger Transcript is available for viewing in the office of the clerk , filed. (Attachments: # 1 Continuation# 2 Continuation) (nochsner,) (Entered: 08/04/2006)
08/09/2006	71	SECOND SUPERSEDING INDICTMENT (The original indictment with the signature of the grand jury foreperson is on file under seal with the clerk) as to Michael D Goodson (1) count(s) 1ss, 2ss-7ss, 8ss-10ss, 11ss, 12ss-14ss, Nancy Booth (2) count(s) 1ss, 2ss-7ss, 8ss-10ss, 11ss, 12ss-14ss, Leslie R Tarrance, Sr (3) count(s) 1, 6-7, 11, 12-13, filed. (ckrus,) Modified on 12/12/2006 (dkelly,). (Entered: 08/10/2006)
08/09/2006	72	US Attys Criminal Docket Sheet as to Michael D Goodson, Nancy Booth, Leslie R Tarrance, Sr, filed.(ckrus,) (Entered: 08/10/2006)
08/09/2006	73	AO 257 Information Sheet as to Michael D Goodson, filed.(ckrus,) (Entered: 08/10/2006)
08/09/2006	77	ORDER for Issuance of Notice of Superseding Indictment as to Michael D Goodson (Signed by

		Judge Stephen Smith). Parties notified. (ckrus,) (Entered: 08/10/2006)
08/10/2006	79	NOTICE OF SETTING as to Michael D Goodson, Nancy Booth. Arraignment set for 8/17/2006 at 10:00 AM in Courtroom 701 before Magistrate Judge Mary Milloy, filed. (ckrus,) (Entered: 08/10/2006)
08/17/2006	85	Minute Entry for proceedings held before Judge Mary Milloy :ARRAIGNMENT as to Michael D Goodson (1) Count 1ss,2ss-7ss,8ss-10ss,11ss,12ss-14ss and Nancy Booth (2) Count 1ss,2ss-7ss,8ss-10ss,11ss,12ss-14ss held on 8/17/2006. Not Guilty on all counts. Copy of order to continue trial given to the parties, 69 Appearances: Melissa Annis, Charles L Duke, Abraham M Fisch.(ERO:yes) (Interpreter:no) Deft remanded to Def. #1 Remanded Deft continued on Def. # 2 Bond, filed.(ejuarez,) (Entered: 08/18/2006)
08/23/2006	88	AMENDED SCHEDULING ORDER as to Michael D Goodson, Nancy Booth, Leslie R Tarrance, Sr. Dispositive Motion Filing due by 10/2/2006. Responses due by 10/23/2006. Motion Hearing set for 11/3/2006 at 10:00 AM.

		Pretrial Conference set for 11/27/2006 at 02:30 PM. Proposed Voir Dire due by 11/28/2006. Jury Trial set for 12/5/2006 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes in Courtroom 11C before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 08/23/2006)
10/31/2006	144	THIRD SUPERSEDING INDICTMENT (The original indictment with the signature of the grand jury foreperson is on file under seal with the clerk) as to Michael D Goodson (1) count(s) 1sss, 2sss-6sss, 7sss-13sss, 14sss, Leslie R Tarrance, Sr (3) count(s) 1s, 2s-4s, 7s-13s, 14s, filed. (ckrus,) Modified on 12/12/2006 (dkelly,). (Entered: 11/02/2006)
10/31/2006	145	US Attys Criminal Docket Sheet as to Michael D Goodson, Leslie R Tarrance, Sr, filed.(ckrus,) (Entered: 11/02/2006)
10/31/2006	146	AO 257 Information Sheet as to Michael D Goodson, filed.(ckrus,) (Entered: 11/02/2006)
10/31/2006	148	ORDER for Issuance of Superseding Indictment as to Michael D Goodson (Signed by Judge Stephen Smith). Parties notified. (ckrus,) (Entered:

		11/02/2006)
11/02/2006	151	NOTICE OF SETTING as to Michael D Goodson. Arraignment set for 11/9/2006 at 10:00 AM in Courtroom 701 before Magistrate Judge Mary Milloy, filed. (ckrus,) (Entered: 11/02/2006)
11/03/2006	156	Minute Entry for MOTION HEARING held before Judge Lynn N. Hughes on 11/03/2006as to Michael D Goodson, Leslie R Tarrance, Sr re: 95 Opposed MOTION to Dismiss, 124 Opposed MOTION to Continue Trial, 99 Opposed MOTION to Sever Defendant Leslie R Tarrance, Sr. Hearing heard on all pending motions. Order to be entered. Oral rulings: The trial is continued. The parties will tell the case manager when they have agreed on a new date for the trial. Appearances: Melissa Annis and Martha Minnis f/ govt, Abraham M Fisch f/ deft Goodson, Michael John Hinton, Sr, and Robert J Sussman f/ deft Tarrance.(Court Reporter: E. Reed) Deft (01) remanded to custody Deft (03) continued on bond, filed.(dkelly,) (Entered: 11/03/2006)
11/03/2006	157	ORDER granting 99 Opposed MOTION to Sever Defendant Leslie R Tarrance, Sr., and

		denying as moot 95 Opposed MOTION to Leslie R Tarrance, Sr. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 11/03/2006)
11/08/2006	158	MOTION for Status of Trial Settings by USA as to Michael D Goodson, Leslie R Tarrance, Sr, filed. (Attachments: # 1 Proposed Order)(Annis, Melissa) (Entered: 11/08/2006)
11/09/2006	159	ORDER SETTING TRIAL as to Michael D Goodson and Leslie R Tarrance, Sr. re: 124 Opposed MOTION to Continue Trial and 158 MOTION to Set Trial Dates. Motions due by 1/30/2007. Responses due by 2/20/2007. Pretrial Conference reset for 2/27/2007 at 02:30 PM in Room 11122 before Judge Lynn N. Hughes. Proposed Voir Dire due by 2/28/2007. Jury Trial for Michael Goodson reset for 3/6/2007 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes. Jury Trial for Leslie Tarrance, Sr., reset for 3/20/2007 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 11/09/2006)

11/09/2006	161	TRANSCRIPT as to Michael D Goodson, Leslie R Tarrance, Sr re: Motion Hearing held on November 3, 2006 before Judge Lynn N. Hughes. Court Reporter: E. Reed. Transcript is available for viewing in the office of the clerk , filed. (sguevara,) (Entered: 11/14/2006)
11/15/2006	162	NOTICE OF SETTING as to Michael D Goodson - regarding 144 Superseding Indictment. Arraignment set for 11/21/2006 at 10:00 AM in Courtroom 703 before Magistrate Judge Calvin Botley, filed. (kmurphy,) (Entered: 11/15/2006)
11/21/2006	164	Minute Entry for proceedings held before Judge Calvin Botley: ARRAIGNMENT as to Michael D Goodson (1) Count 1sss,2sss-6sss,7sss-13sss,14sss held on 11/21/2006. Not Guilty on 1sss - 14sss. Trial set 3/6/07 at 9:00 am before Judge Lynn Hughes. Appearances: Melissa Annis, Abraham M Fisch.(ERO:C Jantowski) (Interpreter:No) Deft remanded to custody, filed.(kmurphy,) (Entered: 11/22/2006)
11/22/2006	165	TRANSCRIPT as to Michael D Goodson re: arraignment/detention hearing

		held on 4/10/06 before Judge Calvin Botley. Court Reporter: ERO. Transcript is available for viewing in the office of the clerk , filed. (Attachments: # 1 Continuation # 2 Continuation) (cpeebles) (Entered: 11/27/2006)
02/12/2007	167	NOTICE OF SETTING as to Michael D Goodson, Leslie R Tarrance, Sr.Pretrial Conference reset for 2/28/2007 at 03:00 PM in Room 11122 before Judge Lynn N. Hughes.(dkelly,) (Entered: 02/12/2007)
02/27/2007	170	Proposed Jury Instructions by USA as to Michael D Goodson, Leslie R Tarrance, Sr, filed. (Annis, Melissa) (Entered: 02/27/2007)
02/27/2007	171	NOTICE of Intent to Use Evidence by Michael D Goodson, filed. (Annis, Melissa) (Entered: 02/27/2007)
02/28/2007	172	EXHIBIT LIST by USA as to Michael D Goodson, Leslie R Tarrance, Sr, filed. (Annis, Melissa) (Entered: 02/28/2007)
02/28/2007		Minute Entry for PRETRIAL CONFERENCE held before Judge Lynn N. Hughes as to Michael D Goodson, Leslie R Tarrance, Sr, on 2/28/2007. Order to be entered. Appearances: Melissa Annis and

		Martha Minnis f/ govt, Abraham Moses Fisch f/ deft Goodson, Robert J Sussman f/ deft Tarrance. Defts not present.(Court Reporter: A. Manley) (Law clerk: Weir) (dkelly,) (Entered: 03/01/2007)
02/28/2007	175	ORDER granting 174 First MOTION to Continue Trial as to Leslie R Tarrance, Sr. Pretrial Conference set for 3/20/2007 at 02:30 PM in Room 11122 before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes). Parties notified. (chorace,) (Entered: 03/01/2007)
03/12/2007	176	Minute Entry for proceedings held before Judge Stephen Wm Smith : COUNSEL DETERMINATION HEARING as to Michael D Goodson held on 3/12/2007. Private counsel to be appointed from the CJA Panel. Appearances: Melissa Annis.(ERO:E. Spencer) (Interpreter:No) Deft remanded to custody, filed.(jmarchand) (Entered: 03/12/2007)
03/12/2007	177	Financial Affidavit - CJA 23 by Michael D Goodson (See General Order 2004-11), filed.(jmarchand,) (Entered: 03/12/2007)
03/12/2007		Attorney update in case as to Michael D Goodson. Attorney Robert James Fickman for

		Michael D Goodson added. Attorney Abraham Moses Fisch terminated. (jmarchand) (Entered: 03/12/2007)
03/12/2007	178	CJA 20 as to Michael D Goodson: Appointment of Attorney Robert James Fickman for Michael D Goodson (Signed by Judge Stephen Wm Smith). Parties notified. (jmarchand) (Entered: 03/12/2007)
03/14/2007	179	NOTICE OF RESETTING as to Michael D Goodson, Leslie R Tarrance, Sr. Pretrial Conference reset for 3/21/2007 at 02:30 PM in Room 11122 before Judge Lynn N. Hughes. (dkelly,) (Entered: 03/14/2007)
03/19/2007	181	TRANSCRIPT as to Michael D Goodson re: Counsel Determination held on 5/31/2006 before Judge Honorable Mary Milloy. Transcriber: Exceptional Reporting. Transcript is available for viewing in the office of the clerk, filed. (esmith,) Modified on 12/15/2008 (dclark,). (Entered: 03/21/2007)
03/21/2007		Minute Entry for PRETRIAL CONFERENCE held before Judge Lynn N. Hughes on 3/21/2007 as to Michael D Goodson, Leslie R Tarrance, Sr. Appearances: Melissa J Annis, Martha Minnis f/

		govt; Robert James Fickman f/ deft (01); Michael John Hinton, Sr, Robert J Sussman f/ deft (03).(Court Reporter: C. Barron) Deft remanded to custody (01); Deft continued on bond (03).(dkelly,) (Entered: 03/22/2007)
03/22/2007	182	NOTICE OF SETTING as to Michael D Goodson, Leslie R Tarrance, Sr.Pretrial Conference set for 4/9/2007 at 02:30 PM in Courtroom 11C before Judge Lynn N. Hughes.(dkelly,) (Entered: 03/22/2007)
03/22/2007	183	ORDER SEVERING COUNTS as to Michael D Goodson, Leslie R Tarrance, Sr. The money laundering counts are severed and will be tried separately. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 03/23/2007)
03/28/2007	186	TRANSCRIPT as to Michael D Goodson re: Arraignment held on 8/17/06 before Judge Mary Milloy. Court Reporter: ERO. Transcript is available for viewing in the office of the clerk, filed. (ltrevino,) (Entered: 03/29/2007)
03/28/2007	187	TRANSCRIPT as to Michael D Goodson re: Counsel Determination held on 3/12/07 before Judge Stephen Smith.

		Court Reporter: ERO. Transcript is available for viewing in the office of the clerk, filed. (dpower,) (Entered: 03/29/2007)
04/02/2007	188	TRANSCRIPT as to Michael D Goodson, Leslie R Tarrance, Sr re: Hearing held on 02/28/07 before Judge Lynn N. Hughes. Court Reporter: Anita G. Manley. Transcript is available for viewing in the office of the clerk, filed. (jegonzalez,) (Entered: 04/02/2007)
04/02/2007	190	LETTER from Michael D Goodson re: keeping Fisch as attorney, filed. (dkelly,) (Entered: 04/03/2007)
04/03/2007	191	ORDER: Treating Goodson's 190 Letter as a motion to retain Abraham Fisch as counsel, it is denied.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 04/03/2007)
04/04/2007	192	TRANSCRIPT as to Michael D Goodson, Nancy Booth, Leslie R Tarrance, Sr re: Pretrial Conference held on 3/21/07 before Judge Lynn N. Hughes. Court Reporter: Cheryll K. Barron. Transcript is available for viewing in the office of the clerk, filed. (ltrevino,) (Entered: 04/05/2007)
04/09/2007	193	MOTION to Withdraw as

		Attorney by Robert James Fickman by Michael D Goodson, filed. (Fickman, Robert) (Entered: 04/09/2007)
04/09/2007		Minute Entry for PRETRIAL CONFERENCE held before Judge Lynn N. Hughes as to Michael D Goodson, Leslie R Tarrance, Sr, on 4/9/2007: Fickman's 193 motion to withdraw is granted. Goodson, who has refused to cooperate with any attorney other than Fisch, will proceed without counsel. Jury Trial f/ Goodson set for 7/24/2007 at 9:00 a.m. with trial f/ Tarrance to follow. Appearances: Melissa J Annis and Martha Minnis f/ govt, Robert James Fickman f/ deft Goodson, Michael John Hinton, Sr, and Robert J Sussman f/ deft Tarrance.(ERO:yes) Deft Goodson remanded to custody. Deft Tarrance continued on bond.(dkelly,) (Entered: 04/09/2007)
04/10/2007	194	NOTICE OF SETTING as to Michael D Goodson, Leslie R Tarrance, Sr. Pretrial Conference set for 7/9/2007 at 02:30 PM in Courtroom 11C before Judge Lynn N. Hughes.(dkelly,) (Entered: 04/10/2007)
04/10/2007		Attorney update in case as to

		Michael D Goodson. Attorney Robert James Fickman terminated. (dkelly,) (Entered: 04/10/2007)
04/13/2007	195	TRANSCRIPT as to Michael D Goodson, Leslie R Tarrance, Sr re: Pretrial Conference held on 4/9/2007 before Judge Lynn N. Hughes. Transcriber: Judicial Transcribers of Texas. Transcript is available for viewing in the office of the clerk, filed. (esmith,) Modified on 12/15/2008 (dclark,). (Entered: 04/18/2007)
05/10/2007	198	MOTION to Continue Case Until Mr. Fisch is Reinstated as Attorney by Michael D Goodson, filed. (Attachments: # 1 Mailing Envelope)(cpeebles,) (Entered: 05/15/2007)
05/15/2007	199	ORDER denying 198 Motion to Continue as to Michael D Goodson (1).(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 05/15/2007)
06/25/2007	201	SUPERSEDING INDICTMENT (The original indictment with the signature of the grand jury foreperson is on file under seal with the clerk) as to Michael D Goodson (1) count(s) 1ssss, 2ssss-6ssss, 7ssss-13ssss, Leslie R Tarrance, Sr (3) count(s) 1ss, 2ss-4ss, 7ss-13ss, filed. (\ckrus,)

		Modified on 2/4/2009 (ckrus,). (Entered: 06/26/2007)
06/25/2007	204	US Attys Criminal Docket Sheet as to Michael D Goodson, Leslie R Tarrance, Sr, filed.(\ckrus,) (Entered: 06/26/2007)
06/25/2007	206	ORDER for Issuance of Notice of Superseding Indictment as to Michael D Goodson (Signed by Judge Frances H Stacy) Parties notified. (\ckrus,) (Entered: 06/26/2007)
06/26/2007	207	NOTICE OF SETTING as to Michael D Goodson. Arraignment set for 6/28/2007 at 10:00 AM in Courtroom 704 before Magistrate Judge Frances H Stacy, filed. (\ckrus,) (Entered: 06/26/2007)
06/28/2007	211	Minute Entry for proceedings held before Judge Frances H Stacy : ARRAIGNMENT as to Michael D Goodson (1) Count 1ssss,2ssss-6ssss,7ssss-13ssss and Leslie R Tarrance Sr (3) Count 1ss,2ss-6ss,7ss-13ss held on 6/28/2007. Not Guilty on All. Scheduling Order not issued. Defendant Tarrance allowed to waive appearance and the court entered an Order GRANTING this request. Jury Trial set for 7/24/2007 at 09:00 AM in Courtroom 11C before Judge Lynn N. Hughes.. Pretrial

		Conference set for 7/9/2007 at 02:30 PM in Courtroom 11C before Judge Lynn N. Hughes.. Appearances:D Hernandez, USPS. Melissa J Annis, AUSA.(ERO:yes) (Interpreter:no) Deft remanded to Custody for Deft (1) Deft continued on Bond for Deft (3), filed.(blacy,) (Entered: 06/29/2007)
07/09/2007	213	MOTION Motion for Faretta Warnings by USA as to Michael D Goodson, filed. (Annis, Melissa) (Entered: 07/09/2007)
07/11/2007	215	MOTION Supplement the Record re 213 MOTION Motion for Faretta Warnings by USA as to Michael D Goodson. filed. (Attachments: # 1 # 2 # 3 # 4 # 5 # 6)(Annis, Melissa) (Entered: 07/11/2007)
07/12/2007	216	MOTION Admit Exhibits by USA as to Michael D Goodson, filed. (Annis, Melissa) (Entered: 07/12/2007)
07/12/2007	217	EXHIBIT LIST by USA as to Michael D Goodson, filed. (Annis, Melissa) (Entered: 07/12/2007)
07/17/2007	218	NOTICE OF SETTING as to Michael D Goodson. Final Pretrial Conference set for 7/19/2007 at 02:00 PM in Courtroom 11C before Judge Lynn N.

		Hughe.(dkelly,) (Entered: 07/17/2007)
07/17/2007	225	TRANSCRIPT as to Michael D Goodson, Leslie R Tarrance, Sr re: Pretrial Conference held on 7/9/2007 before Judge Lynn N. Hughes. Court Reporter: Stephanie Kay Carlisle-Neisser. Transcript is available for viewing in the office of the clerk, filed. (kosborne,) (Entered: 07/18/2007)
07/18/2007	222	***FILED IN ERROR. WRONG IMAGE ATTACHED.*** MOTION to Exclude Motion in Limine by USA as to Michael D Goodson, filed. (Minnis, Martha) Modified on 7/18/2007 (dkelly,). (Entered: 07/18/2007)
07/18/2007	223	Proposed Voir Dire by USA as to Michael D Goodson, filed. (Minnis, Martha) (Entered: 07/18/2007)
07/18/2007	224	MOTION in Limine by USA as to Michael D Goodson, filed. (Minnis, Martha) (Entered: 07/18/2007)
07/19/2007	226	MOTION Motion for Written Findings of Fact by USA as to Michael D Goodson, filed. (Attachments: # 1)(Annis, Melissa) (Entered: 07/19/2007)
07/19/2007	227	WITNESS LIST by USA as to Michael D Goodson, filed. (Annis, Melissa) (Entered: 07/19/2007)

07/19/2007	228	Minute Entry for PRETRIAL CONFERENCE held before Judge Lynn N. Hughes on 7/19/2007 as to Michael D Goodson. Rulings: The governments motion in limine (224) and its motion to supplement the record (215) are granted. Jury Trial set for 7/24/2007 at 9:00 a.m. Appearances: Melissa J Annis f/ govt; Michael Goodson (pro se).(Court Reporter: A. Manley) Deft remanded to custody. (dkelly,) (Entered: 07/19/2007)
07/20/2007	229	FINDINGS OF FACT as to Michael D Goodson. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 07/20/2007)
07/23/2007		Attorney update in case as to Michael D Goodson. Attorney James Ray Alston for Michael D Goodson added as stand-by counsel. (dkelly,) (Entered: 07/23/2007)
07/23/2007	230	MOTION to Continue Trial by Michael D Goodson, filed. (dkelly,) (Entered: 07/23/2007)
07/23/2007	231	ORDER denying 230 Motion to Continue Trial as to Michael D Goodson (1).(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 07/23/2007)

07/23/2007	250	CJA 20 as to Michael D Goodson: Appointment of Attorney James Ray Alston for Michael D Goodson (Signed by Judge Lynn N. Hughes) Parties notified. (kmurphy,) (Entered: 08/30/2007)
07/24/2007	232	MOTION to Dismiss Count(s) 3, 4, 10, and 13 of the fourth superseding indictmentby USA as to Michael D Goodson, filed. (dkelly,) (Entered: 07/26/2007)
07/24/2007	233	Minute Entry for First DAY OF JURY TRIAL held before Judge Lynn N. Hughes on 7/24/2007as to Michael D Goodson: Appearances: James Ray Alston (as stand-by counsel f/ deft), Melissa J Annis, Martha A Minnis f/ govt.(Court Reporter: A. Manley)Govt's motion to dismiss counts 3, 4, 10, and 13 is granted.Voir dire begins. Jury selected and sworn. Jury Trial begins. Govt evidence presented. Adjourned to day 2 on 7/25/2007 at 9:00 a.m. Deft remanded to custody.(dkelly,) Modified on 7/26/2007 (dkelly,). (Entered: 07/26/2007)
07/24/2007	234	Court's Preliminary Instruction to the Jury as to Michael D Goodson, filed. (dkelly,) (Entered: 07/26/2007)
07/25/2007	235	Minute Entry for Second DAY OF JURY TRIAL held before Judge

		Lynn N. Hughes on 7/25/2007 as to Michael D Goodson. Appearances: James Ray Alston (as stand-by counsel f/ deft), Melissa J Annis, Martha A Minnis f/ govt. (Court Reporter: A. Manley)Govt evidence presented. Evidence concluded. Final arguments. Court's charge to the jury. Jury deliberated. Jury verdict reached: Guilty count(s) 1, 2, 5, 6, 7, 8, 9, 11, and 12. Trial ends. Order for PSI signed setting Sentencing for 10/29/2007 at 1:30 p.m. Deft remanded to custody.(dkelly,) (Entered: 07/26/2007)
07/25/2007	236	WAIVER of Right to Testify by Michael D Goodson, filed.(dkelly,) (Entered: 07/26/2007)
07/25/2007	237	Court's Instruction to the Jury as to Michael D Goodson, filed. (dkelly,) (Entered: 07/26/2007)
07/25/2007	238	Court's Special Instruction to the Jury as to Michael D Goodson, filed. (dkelly,) (Entered: 07/26/2007)
07/25/2007	239	Court's NOTE to the Jury re: Additional Exhibits as to Michael D Goodson, filed. (dkelly,) (Entered: 07/26/2007)
07/25/2007	240	Jury Note 1 as to Michael D Goodson, filed. (Redacted)(dkelly,

		) Additional attachment(s) added on 7/26/2007 (dkelly,). (Entered: 07/26/2007)
07/25/2007	241	Jury Note 2 as to Michael D Goodson, filed. (Redacted) (dkelly,) Additional attachment(s) added on 7/26/2007 (dkelly,). (Entered: 07/26/2007)
07/25/2007	242	Jury Note 3 as to Michael D Goodson, filed. (Redacted) (dkelly,) Additional attachment(s) added on 7/26/2007 (dkelly,). (Entered: 07/26/2007)
07/25/2007	243	JURY VERDICT as to Michael D Goodson (1): Guilty on Counts 1ssss,2ssss,5ssss-6ssss,7ssss-9ssss,11ssss-12ssss, filed. (dkelly,) (Entered: 07/26/2007)
07/25/2007	244	ORDER for Presentence Investigation and Disclosure & Sentencing Dates as to Michael D Goodson. PSI Completion due by 9/24/2007. Objection to PSI due by 10/9/2007. Final PSI due by 10/22/2007. Sentencing set for 10/29/2007 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 07/26/2007)
07/25/2007	245	RECEIPT FOR WITHDRAWAL OF EXHIBITS by USA as to

		Michael D Goodson, filed. (dkelly,) (Entered: 07/26/2007)
07/25/2007		Attorney update in case as to Michael D Goodson. Attorney James Ray Alston terminated. (dkelly,) (Entered: 08/03/2007)
07/25/2007	249	AMENDED EXHIBIT LIST by USA as to Michael D Goodson, filed. (dkelly,) (Entered: 08/14/2007)
07/27/2007	246	Per Curiam of USCA for the Fifth Circuit (certified copy) as to Michael D Goodson dated 7/27/07; USCA No. 07-20497. The petition for writ of mandamus is DENIED,filed.(ltrevino,) (Entered: 07/30/2007)
08/01/2007	247	MOTION for New Trial by Michael D Goodson, filed. (Fisch, Abraham) (Entered: 08/01/2007)
08/03/2007	248	ORDER denying 247 Motion for New Trial as to Michael D Goodson (1).(Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 08/03/2007)
09/10/2007	251	Order Resetting Sentencing on the request of the probation office as to Michael D. Goodson and Leslie R. Tarrance Sr. PSI due: 12/4/2007. Sentencing reset to 1/7/2007 at 1:30 p.m.(Signed by Judge Lynn N. Hughes) Parties

		notified. (dkelly,) Additional attachment(s) added on 9/10/2007 (dkelly,). (Entered: 09/10/2007)
10/25/2007		***Reset Sentencing as to Michael D Goodson, Nancy Booth, Leslie R Tarrance, Sr: Sentencing reset for 1/7/2008 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes (dkelly,) (Entered: 10/25/2007)
12/14/2007	257	Order Resetting Sentencing at the request of the Probation Office as to Michael D Goodson. Final PSI due by 3/6/2008. Sentencing reset for 4/14/2008 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) Additional attachment(s) added on 12/14/2007 (dkelly,). (Entered: 12/14/2007)
01/18/2008	262	Order Resetting Sentencing at the request of the Probation Office as to Michael D Goodson. Final PSI due by 5/7/2008. Sentencing set for 6/9/2008 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes.(Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) Additional attachment(s) added on 1/18/2008 (dkelly,). (Entered: 01/18/2008)
05/13/2008	266	Order Resetting Sentencing at the request of the Probation Office as

		to Michael D Goodson. Final PSI due by 6/30/2008. Sentencing reset for 8/4/2008 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes. (Signed by Judge Lynn N. Hughes) (Attachments: # 1 Probation request to ext tm - psi rpt) Parties notified. (dkelly,) (Entered: 05/13/2008)
07/15/2008	273	Order Resetting Sentencing at the request of the Probation Office as to Michael D Goodson. Final PSI due by 6/18/2008. Sentencing reset for 10/22/2008 at 01:30 PM in Courtroom 11C before Judge Lynn N. Hughes. (Signed by Judge Lynn N. Hughes) (Attachments: # 1 Probation memo) Parties notified. (dkelly,) (Entered: 07/15/2008)
09/26/2008	278	NOTICE of No Objection to PSR by USA as to Michael D Goodson, filed.(Annis, Melissa) (Entered: 09/26/2008)
10/06/2008	279	Final Presentence Investigation Report (Sealed) as to Michael D Goodson, filed. (echavez,) (Entered: 10/06/2008)
10/06/2008	280	Confidential Sentencing Recommendation(Sealed) regarding Michael D Goodson, filed. (echavez,) (Entered: 10/06/2008)

10/06/2008	281	Confidential Sentencing Recommendation(Sealed) regarding Michael D Goodson, filed. (echavez,) Modified on 10/8/2008 (ckrus,). *Per probation office, this document was filed in error. (Entered: 10/06/2008)
10/06/2008	282	Sealed Addendum to 279 Final Presentence Investigation Report (Sealed) as to Michael D Goodson, filed. (echavez,) (Entered: 10/06/2008)
10/06/2008	283	Final Presentence Investigation Report (Sealed) as to Michael D Goodson, filed. (echavez,) Modified on 10/8/2008 (ckrus,). *Per probation office, this document was filed in error. (Entered: 10/06/2008)
10/06/2008	284	Confidential Sentencing Recommendation(Sealed) regarding Michael D Goodson, filed. (echavez,) Modified on 10/8/2008 (ckrus,). *Per probation office, this document was filed in error. (Entered: 10/06/2008)
10/22/2008		Minute Entry for proceedings held before Judge Lynn N. Hughes: Sentencing held on 10/22/2008 for Michael D Goodson (1). 240 months on Count(s) 1ssss, 2ssss, 5ssss-6ssss, 7ssss, each count to run concurrently; 53 months on cts 8ssss-9ssss, 11ssss-12ssss each

		count to run concurrently. Cts 1ssss,2ssss,5ssss,6ssss,7ssss consecutive to cts 8ssss,9ssss,11ssss,12ssss for a total sentence of 293 months. 3 yrs SRT on each count to run concurrently. $3,060,790.30 restitution. $100 special assessment on each count - remitted on govt mtn. Remaining counts dismissed. Goodson must work in prison, and 80% of his prison earnings must be devoted to paying child support to his minor children. When out of prison, the restitution is to be paid @ $750/month but is not an excuse for not paying child support. Special conditions of SRT include special financial conditions of full disclosure and not opening any accounts without written permission from Goodson's probation officer. Appearances:Michael Goodson (pro se), Melissa J Annis, Martha A Minnis, S. Yaege f/ US Probation - H.(ERO:yes) Deft remanded to custody. (dkelly,) (Entered: 10/22/2008)
10/22/2008	286	NOTICE OF RIGHT TO APPEAL as to Michael D Goodson. (Signed by Judge Lynn N. Hughes) Parties notified. (dkelly,) (Entered: 10/23/2008)

11/09/2008	287	JUDGMENT as to Michael D Goodson.(Signed by Judge Lynn N. Hughes) Parties notified. (sbyrum,) (Entered: 11/10/2008)
11/09/2008	288	Statement of Reasons (Sealed) as to Michael D Goodson, filed. (Entered: 11/10/2008)
11/09/2008		DISMISSAL OF COUNTS on Government Motion as to Michael D Goodson. (ckrus,) (Entered: 11/26/2008)
11/20/2008	291	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit by Michael D Goodson re 287 Judgment (Filing fee $ 455),filed.(jewilliams,). No envelope with document. (Entered: 11/21/2008)
11/20/2008	292	MOTION to Appoint Counsel (Duplicate image of 291, for case management purposes) by Michael D Goodson, filed. (jewilliams,). No envelope with document. (Entered: 11/21/2008)
11/24/2008	293	Notice of the Filing of an Appeal as to Michael D Goodson. DKT13 transcript order form was not mailed to appellant. Fee status: Not Paid. The following Notice of Appeal and related motions are pending in the District Court: 291 Notice of Appeal - Judgment and Sentence, 292 MOTION to

		Appoint Counsel,filed.(mmar,) (Entered: 11/24/2008)
12/01/2008	295	Notice of Assignment of USCA No. 08-20760 as to Michael D Goodson, Nancy Booth, Leslie R Tarrance, Sr re: 291 Notice of Appeal - Judgment and Sentence,filed. (mewilliams,) (Entered: 12/01/2008)
12/04/2008	298	Order Appointing Counsel 292 Motion to Appoint Counsel. as to Michael D Goodson (1).(Signed by Judge Lynn N. Hughes.) Parties notified.(sbyrum,) (Entered: 12/05/2008)
12/04/2008	299	CJA 20 as to Michael D Goodson: Appointment of Attorney Joe A Salinas, III for Michael D Goodson.(Signed by Judge Lynn N. Hughes) Parties notified. (sbyrum,) (Entered: 12/05/2008)
12/09/2008	300	Application to Proceed In Forma Pauperis by Michael D Goodson, filed. (aalonzo,) (Entered: 12/09/2008)
12/11/2008	301	ORDER granting 300 Motion to Proceed In Forma Pauperis on appeal as to Michael D Goodson (1). (Signed by Judge Lynn N. Hughes) Parties notified.(dkelly,) (Entered: 12/11/2008)
12/11/2008	302	CJA 24 TRANSCRIPT ORDER FORM by J.A. Salimas, III. This

		is to order a transcript of Bond/Initial held on 3/31/06; 4/3/06 Counsel Determination; 4/4/06, 4/6/06 Detention Hearing; 4/12/06 before Magistrate Judge Frances H Stacy;, (Judge Botley); 5/30/06, 5/31/06, 8/17/06 Arraignment/Counsel Determination; (Judge Milloy); 11/21/06; 6/28/07 Arraignment; 3/12/07 Counsel Determination; 4/9/07 Pre-trial Conf. filed. (mewilliams,) Modified on 12/11/2008 (mewilliams,). CJA-24 forwarded to Judge Hughes for approval. Refers to DKT-13s at 303 304 305 306 307 308 309 310 311 (already on file) and 312 . Modified on 12/16/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	303	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of Bond Hearing/Initial Appearance held on 3/31/06 before Judge Frances H. Stacy. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence,filed. (mewilliams,). (Entered: 12/11/2008)
12/11/2008	304	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of Counsel Determination Hearing held on 4/3/06 before Judge Frances H.

		Stacy. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	305	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Detention Hearing held on 4/4/06 before Judge Frances H. Stacy. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	306	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Detention Hearing held on 4/6/06 before Judge Frances H. Stacy. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence,filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	307	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Arraignment held on 4/12/06 before Judge Calvin Botley. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence,filed. (mewilliams,) (Entered:

		12/11/2008)
12/11/2008	308	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Arraignment held on 5/30/06 before Judge Mary Milloy. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence,filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	309	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Counsel Determination/Arraignment held on 5/31/06; Arraignment held on 8/17/06 before Judge Mary Milloy. This order form relates to the following: 181 Transcript, 291 Notice of Appeal - Judgment and Sentence, 186 Transcript,filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	310	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Arraignment held on 11/21/06 before Judge Calvin Botley; Counsel Determination held on 3/12/07 before Judge Stephen Smith; Arraignment held on 6/28/07 before Frances H. Stacy. This order form relates to the following: 291 Notice of Appeal -

		Judgment and Sentence,filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	311	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. Transcript is already on file in Clerks Office. Pre-trial Conference held on 4/9/07 before Judge Lynn N. Hughes. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, 195 Transcript,filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	312	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Sentencing held on 10/22/08 before Judge Lynn N. Hughes. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence,filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	313	CJA 24 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of Pre-trial Conference held on 3/21/07 before Judge Lynn N. Hughes, filed. (mewilliams,) CJA-24 sent to Judge Hughes for approval 12/15/08. This CJa-24 relates to DKT-13 at 314 . Modified on 12/15/2008 (dclark,). (Entered:

		12/11/2008)
12/11/2008	314	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Pre-trial Conference held on 3/21/07 before Judge Lynn H. Hughes. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, 192 Transcript, filed. (mewilliams,) This DKT-13 relates to CJA-24 at 313 . Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	315	CJA 24 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of Pre-trial Conference held on 7/19/07; 2/28/08 and Trial held on 7/24/07; 7/25/07 before Judge Lynn N. Hughes, filed. (mewilliams,) CJA-24 sent to Judge Hughes for apptoval 12/15/08. This CJA-24 relates to DKT-13 at {316]. Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	316	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Pre-trial Conference held on 7/19/07; First Day of Trial held on 7/24/07; Second Day of Trial held on 7/25/07 before Judge Lynn N. Hughes. This order form relates to the following: 291 Notice of

		Appeal - Judgment and Sentence,filed. (mewilliams,) This DKT-13 relates to CJA-24 at 315 . Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	317	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Pre-trial Conference held on 2/28/07 before Judge Lynn N. Hughes. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, 188 Transcript, filed. (mewilliams,) (Entered: 12/11/2008)
12/11/2008	318	CJA 24 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of Motion Hearing held on 11/3/06 before Judge Lynn N. Hughes, filed. (mewilliams,)CJA-24 sent to Judge Hughes for approval 12/15/08. This CJA-24 relates to DKT-13 at 319 . Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	319	DKT-13 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of: Motion Hearing held on 11/3/06 before Judge Lynn N. Hughes. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, filed.

		(mewilliams,) This DKT-13 relates to CJA-24 at 318 . Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	320	CJA 24 TRANSCRIPT ORDER FORM by J.A. Salinas, III. This is to order a transcript of Motion Hearing held on 4/25/06 before Judge Lynn N. Hughes, filed. (mewilliams,) CJA-24 sent to Judge Hughes for approval 12/15/08. This CJA-24 relates to DKT-13 at 321 . Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
12/11/2008	321	DKT-13 TRANSCRIPT ORDER FORM by J.A.Salinas, III. This is to order a transcript of: Motion Hearing held on 4/25/06 before Judge Lynn N. Hughes. This order form relates to the following: 291 Notice of Appeal - Judgment and Sentence, 70 Transcript,, filed. (mewilliams,) This DKT-13 relates to CJA-24 at 320 . Modified on 12/15/2008 (dclark,). (Entered: 12/11/2008)
01/13/2009	334	APPEAL TRANSCRIPT as to Michael D Goodson, Leslie R Tarrance, Sr re: Motion Hearing held on November 3, 2006 before Judge Lynn N. Hughes. Court Reporter: Ed Reed. This transcript relates to the following:

		291 Notice of Appeal - Judgment and Sentence, 318 Transcript Order Form - CJA 24,. Release of Transcript Restriction set for 4/13/2009., filed. (ereed,) (Entered: 01/13/2009)
01/15/2009	335	Notice of Filing of Official Transcript as to 334 Transcript - Appeal,. Party notified, filed. (mmapps,) (Entered: 01/15/2009)
01/23/2009	336	TRANSCRIPT as to Michael D Goodson re: pretrial conference held on 7/19/07 before Judge Lynn N. Hughes.Court Reporter/Transcriber Anita Manley. Release of Transcript Restriction set for 4/23/2009., filed. (amanley,) (Entered: 01/23/2009)
01/23/2009	337	TRANSCRIPT as to Michael D Goodson re: jury trial, Vol. 1 of 2 held on 7/24/07 before Judge Lynn N. Hughes.Court Reporter/Transcriber Anita Manley. Release of Transcript Restriction set for 4/23/2009., filed. (amanley,) (Entered: 01/23/2009)
01/23/2009	338	TRANSCRIPT as to Michael D Goodson re: jury trial, Vol. 2 of 2 held on 7/25/07 before Judge Lynn N. Hughes.Court Reporter/Transcriber Anita Manley. Release of Transcript

		Restriction set for 4/23/2009., filed. (amanley,) (Entered: 01/23/2009)
01/26/2009	339	Notice of Filing of Official Transcript as to 338 Transcript, 336 Transcript, 337 Transcript. Party notified, filed. (dclark,) (Entered: 01/26/2009)
01/29/2009	341	APPEAL TRANSCRIPT as to Michael D Goodson re: Initial Appearance held on 03-31-06 before Magistrate Judge Frances H Stacy. Court Reporter/Transcriber Judicial Transcribers of Texas, Inc.. This transcript relates to the following: 306 Transcript Order Form - DKT-13, 308 Transcript Order Form - DKT-13, 291 Notice of Appeal - Judgment and Sentence, 305 Transcript Order Form - DKT-13, 304 Transcript Order Form - DKT-13, 303 Transcript Order Form - DKT-13, 311 Transcript Order Form - DKT-13,. Release of Transcript Restriction set for 4/29/2009., filed. (lvmartin,) (Entered: 01/29/2009)
01/29/2009	342	APPEAL TRANSCRIPT as to Michael D Goodson re: Counsel Determination held on 04-03-06 before Magistrate Judge Frances H Stacy. Court Reporter/Transcriber Judicial

		Transcribers of Texas, Inc.. This transcript relates to the following: 306 Transcript Order Form - DKT-13, 308 Transcript Order Form - DKT-13, 291 Notice of Appeal - Judgment and Sentence, 305 Transcript Order Form - DKT-13, 304 Transcript Order Form - DKT-13, 303 Transcript Order Form - DKT-13,. Release of Transcript Restriction set for 4/29/2009., filed. (lvmartin,) (Entered: 01/29/2009)
01/29/2009	343	APPEAL TRANSCRIPT as to Michael D Goodson re: Detention / Arraignment held on 04-04-06 before Magistrate Judge Frances H Stacy. Court Reporter/Transcriber Judicial Transcribers of Texas, Inc.. This transcript relates to the following: 306 Transcript Order Form - DKT-13, 308 Transcript Order Form - DKT-13, 291 Notice of Appeal - Judgment and Sentence, 305 Transcript Order Form - DKT-13, 304 Transcript Order Form - DKT-13, 303 Transcript Order Form - DKT-13,. Release of Transcript Restriction set for 4/29/2009., filed. (lvmartin,) (Entered: 01/29/2009)
01/29/2009	344	APPEAL TRANSCRIPT as to Michael D Goodson re: Detention / Arraignment held on 04-06-06

		before Magistrate Judge Frances H Stacy. Court Reporter/Transcriber Judicial Transcribers of Texas, Inc.. This transcript relates to the following: 306 Transcript Order Form - DKT-13, 308 Transcript Order Form - DKT-13, 291 Notice of Appeal - Judgment and Sentence, 305 Transcript Order Form - DKT-13, 304 Transcript Order Form - DKT-13, 303 Transcript Order Form - DKT-13, 311 Transcript Order Form - DKT-13,. Release of Transcript Restriction set for 4/29/2009., filed. (lvmartin,) (Entered: 01/29/2009)
01/29/2009	345	APPEAL TRANSCRIPT as to Michael D Goodson re: Arraignment held on 05-30-06 before Magistrate Judge Mary Milloy. Court Reporter/Transcriber Judicial Transcribers of Texas, Inc.. This transcript relates to the following: 306 Transcript Order Form - DKT-13, 308 Transcript Order Form - DKT-13, 291 Notice of Appeal - Judgment and Sentence, 305 Transcript Order Form - DKT-13, 304 Transcript Order Form - DKT-13, 303 Transcript Order Form - DKT-13, 311 Transcript Order Form - DKT-13,. Release of Transcript Restriction set for 4/29/2009., filed. (lvmartin,

		) (Entered: 01/29/2009)
01/29/2009	346	APPEAL TRANSCRIPT as to Michael D Goodson re: Pretrial Conference held on 04-09-07 before Judge Lynn N. Hughes. Court Reporter/Transcriber Judicial Transcribers of Texas, Inc.. This transcript relates to the following: 306 Transcript Order Form - DKT-13, 308 Transcript Order Form - DKT-13, 291 Notice of Appeal - Judgment and Sentence, 305 Transcript Order Form - DKT-13, 304 Transcript Order Form - DKT-13, 303 Transcript Order Form - DKT-13, 311 Transcript Order Form - DKT-13,. Release of Transcript Restriction set for 4/29/2009., filed. (lvmartin,) (Entered: 01/29/2009)
01/30/2009	347	Notice of Filing of Official Transcript as to 343 Transcript - Appeal,, 345 Transcript - Appeal,, 346 Transcript - Appeal,, 344 Transcript - Appeal,, 341 Transcript - Appeal,, 342 Transcript - Appeal,,. Party notified, filed. (jegonzalez,) (Entered: 01/30/2009)
02/03/2009	349	APPEAL TRANSCRIPT as to Michael D Goodson re: Superseding Arraignment held on 11/21/06 before Magistrate Judge

		Calvin Botley. Court Reporter/Transcriber Exceptional Reporting. Release of Transcript Restriction set for 5/4/2009., filed. (thudson,) (Entered: 02/03/2009)
02/03/2009	350	APPEAL TRANSCRIPT as to Michael D Goodson re: Arraignment held on 6/28/07 before Magistrate Judge Frances H Stacy. Court Reporter/Transcriber Exceptional Reporting. Release of Transcript Restriction set for 5/4/2009., filed. (thudson,) (Entered: 02/03/2009)
02/03/2009	351	APPEAL TRANSCRIPT as to Michael D Goodson re: Arrraignment held on 4/12/06 before Magistrate Judge Calvin Botley. Court Reporter/Transcriber Exceptional Reporting. Release of Transcript Restriction set for 5/4/2009., filed. (thudson,) (Entered: 02/03/2009)
02/03/2009	352	APPEAL TRANSCRIPT as to Michael D Goodson re: Sentencing held on 10/22/08 before Judge Lynn N. Hughes. Court Reporter/Transcriber Exceptional Reporting. Release of Transcript Restriction set for 5/4/2009., filed. (thudson,) (Entered: 02/03/2009)
02/04/2009	357	Notice of Filing of Official Transcript as to 352 Transcript - Appeal, 349 Transcript - Appeal,

		351 Transcript - Appeal, 350 Transcript - Appeal. Party notified, filed. (dclark,) (Entered: 02/04/2009)
04/13/2009		Electronic record on appeal certified to Fifth Circuit Court of Appeals as to Michael D Goodson re: 291 Notice of Appeal - Judgment and Sentence. USCA No. 08-20760,filed.(blacy,) (Entered: 04/13/2009)
04/16/2009	362	Transmittal Letter on Appeal Certified re: 291 Notice of Appeal - Judgment and Sentence. A paper copy of the electronic record is being transmitted to the Fifth Circuit Court of Appeals in 27 volumes. CDs containing the electronic record are being sent to R Scott Shearer, Joe Salinas, III, Melissa Annis. (USCA No. 08-20760),filed.(blacy,) (Entered: 04/16/2009)
04/27/2009	363	NOTICE of Receipt of Record on Appeal by US Court of Appeals for the Fifth Circuit as to Michael D Goodson re 291 Notice of Appeal - Judgment and Sentence filed by Michael D Goodson. USCA Case Number 08-20760.,filed.(ledwards,) (Entered: 04/28/2009)
01/15/2010	370	Appeal Record Returned from the USCA Fifth Circuit as to Michael

		D Goodson re 291 Notice of Appeal - Judgment and Sentence consisting of 1 Sealed Envelope (copies of sealed documents - Shredded). Electronic copy of the record has been recycled., (USCA No:08-20760),filed.(pcrawford,) (Entered: 01/19/2010)
01/15/2010	371	JUDGMENT of USCA (copy) as to Michael D Goodson issued as mandate 01/13/2010; re: 291 Notice of Appeal - Judgment and Sentence ; USCA No. 08-20760. It is ordered and adjudged that the judgment of the District Court is affirmed.,filed.(pcrawford,) (Entered: 01/19/2010)
01/15/2010	372	PER CURIAM of USCA (copy) as to Michael D Goodson re: 291 Notice of Appeal - Judgment and Sentence ; USCA No. 08-20760. Judgment is Affirmed.,filed.(pcrawford,) (Entered: 01/19/2010)
01/26/2010	374	Notice of Filing of Official Transcript as to 373 Transcript. Party notified, filed. (dclark,) (Entered: 01/26/2010)
06/04/2010	375	Order of USCA (copy) as to Michael D Goodson re: 291 Notice of Appeal - Judgment and Sentence ; USCA No. 08-20760. The petition for writ of certiorari is now hereby

		dismissed.,filed.(rosaldana) (Entered: 06/07/2010)

TRANSCRIPT OF HEARING APRIL 25, 2006

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	CR. NO. H-06-98. HOUSTON,TEXAS
VS.	
MICHAEL D. GOODSON	**APRIL 25, 2006** 1:30 P.M. to 2:50 P.M.

TRANSCRIPT of HEARING
BEFORE THE HONORABLE LYNN N. HUGHES
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: MS. MELISSA ANNIS
Assistant U.S. Attorney
P.O. Box 61129
Houston, Texas 77208

FOR THE DEFENDANT: MR. ABRAHAM M. FISCH
Attorney at Law
1305 Prairie
Suite 300
Houston, Texas 77002

FOR THE RESPONDENT: MR. R. SCOTT SHEARER
Attorney at Law
929 Preston
Suite 200
Houston, Texas 77002

OFFICIAL COURT REPORTER: MS. KATHY
L. METZGER
U.S. Courthouse
515 Rusk
Room 8016
Houston, Texas
77002
713-250-5208

Proceedings recorded by mechanical stenography,
transcript produced by computer-aided transcription.

PROCEEDINGS

(Open court, defendant present.)

THE COURT: Thank you. Be seated.

Mr. Fisch and Mr. Shearer, would please stand and raise your right hand.

Do each of you solemnly swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth?

MR. FISCH: Yes, Your Honor.

MR. SHEARER: Yes, Your Honor.

THE COURT: Mr. Fisch, your client had an appointed counsel.

MR. FISCH: Yes, sir.

THE COURT: And how did it come that if he had no money on the day of his arraignment, that he had money several days later to retain you?

MR. FISCH: I had a client, Your Honor, that I was representing in Judge David Hittner's court. The pharmacy/doctor case, promethazine case. It was a lengthy trial. That was all -- went to sentencing a couple weeks ago -- two or

three weeks ago. A gentleman -- my client's name was Mr. Eric Craft, Your Honor.

Mr. Goodson, from what I understand, sir, was placed into the same cell with Mr. Craft. After having a very favorable result with Mr. Craft, he told Mr. Goodson about me; and Mr. Goodson's family and friends and confidants contacted me about representing him. I didn't know anything about the proceedings, Your Honor, that transpired from what I understand in front of Magistrate Stacy. I got involved--

THE COURT: Why not? Because you would then when you became retained look at the case file and see what had been done in it.

MR. FISCH: Well, at that point, Your Honor, I did. And I contacted Ms. Annis and talked to her immediately and started to represent my client in his behalf.

THE COURT: And when you just glanced at the docket sheet, you saw that Mr. Goodson had been represented by the federal public defender.

MR. FISCH: Yes, sir, I talked to him as well, Mr. Peter Bray.

THE COURT: Which means you knew that somewhere along the line he had sworn to be unable to afford counsel. That's how it happens.

MR. FISCH: I understand, Your Honor. In all honesty, I was not thinking about that, Your Honor. That really did not --

THE COURT: Michael D. Goodson, Docket 17, filed a financial affidavit swearing he didn't have any money for a lawyer. And did Mr. Goodson reimburse the public defender for the money it spent when it shouldn't have?

MR. FISCH: Judge, once again, I would be remiss if I told you something that I do not have knowledge of. I don't know if he was asked to do that. I know family and a friend got together --

THE COURT: I don't care where he gets the money.

MR. FISCH: Yes, sir.

THE COURT: Well, I would prefer that he not take it from other people, but swearing you don't have the resources --and that includes people who will loan you the money or give you the money, right?

MR. FISCH: I would assume so, Your Honor, yes, sir.

THE COURT: And Mr. Bray probably didn't do much, but it's the principle, both with an "1-e" and an "a-1."

MR. FISCH: Yes, sir.

THE COURT: Now, Mr. Shearer, do you want me to address this motion to quash that you filed?

MR. SHEARER: Yes, Your Honor, unless you are allowing Mr. Fisch to continue.

THE COURT: Why would I let Mr. Fisch continue representing Mr. Goodson when he has demonstrated before me an inability to do the work required, ranging from simply showing up, to picking up the documents and reviewing them and being prepared for sentencings?

MR. SHEARER: Your Honor, I'm familiar with Mr. Fisch and his work, and he is a fantastic trial lawyer. As he stated, he just got out of one of his cases, a doctor/pharmacist case with Mr. Hittner. Mr. Hittner took him aside and said, "You did a great job on this case." Whatever problem Mr. Fisch --

THE COURT: So, are you vouching for Fisch, or are you telling me Hittner is vouching for Fisch?

MR. SHEARER: Both. I've worked with Mr. Fisch many times. We've tried many cases together. He's not an appellate lawyer and I'm not as good a trial lawyer as he is, but if the Court requires or would like me to, I'd be happy to assist him in this case.

MR. FISCH: Can I say something, Your Honor? *THE COURT:* Yes, sir.

MR. FISCH: Your Honor, four years ago I was -- and I'm not -- by no means am I making excuses for anything that happened, that transpired whatsoever. Okay? I apologize to you for anything I may have done to offend you, disrespect --

THE COURT: It's not me. It's the entire fabric of justice.

MR. FISCH: The process, yes, sir. And it helped me -- what transpired help me not just in my life, but in my practice and has helped me be a much more mature, responsible trial lawyer. All I can say, Judge, is I took affirmative action not to see that that would ever happen again and it has not. And the only thing I can say is

the last federal trial I came out of was in front of Honorable Judge Hittner. It was a very serious, complex case, involving 20 codefendants, doctors, pharmacists. I don't know if you've heard about it. It was in the paper.

THE COURT: I have lunch with Hittner once a week. I hear more about his cases than I ever wanted to.

MR. FISCH: Yes, sir. You know, I had it in the forefront of my mind, Your Honor, everything that transpired with you and I went through a -- some things in my life and saw the errors of my ways and don't make those mistakes anymore, Your Honor. I felt that I did -- you know, that was just several months ago. It was a very -- it was over a two-week trial. I had --

THE COURT: Well, am I supposed to believe that the favorable outcome -- does that mean your guy was acquitted?

MR. *FISCH:* No, sir. He was facing some substantive counts, some misdemeanors, but under -- the way the guidelines were and the way the statute was, he could

have -- Judge Hittner could have stacked them and he could have upwardly departed based on -- he upwardly departed everybody else that's been sentenced so far. Judge Hittner, after handling the sentencing in front of him, going through that, did not stack, did not upwardly depart, gave him the bottom of the guidelines. My client was very grateful considering he put the government to its proof in trial, Your Honor, and still came out with a fairly, you know, fair sentence.

THE COURT: That's an I mean, I'm not saying he wasn't happy.

MR. FISCH: It was a very - -

THE COURT: He stood trial and the government met its responsibility apparently, and he lost.

MR. FISCH: Judge, that's correct, but I'm just telling you --

THE COURT: So, what is the extraordinary result there?

MR. FISCH: Judge, he was facing up to over 20 something years in the federal penitentiary and he did not get anywhere near that. The government -- the Judge did not upwardly depart and did not stack his sentences, so he was very grateful, plus the fact --

THE COURT: Well, that's because Hittner is wise and just, not because you're a great lawyer, or perhaps the government is a bad lawyer.

MR. FISCH: Well, no, Mr. Balboni and Ms. Voll handled that case, Your Honor, did a very good job. It was a very intense trial, very hard fought, and the judge even told me that I did a very good job.

THE COURT: So, you're telling me, Mr. Fisch, that you no longer are the person you were in the fall of 2002?

MR. FISCH: Yes, sir. I went through some -- I went through a lot of changing experience and –

THE COURT: And did I change you or did the judge in *Bond versus the State of Texas* change you?

MR. SHEARER: Marvin Bond?

MR. FISCH: No, that was the summer 2002, right around this time, Your Honor. That was right during all this happened in the *Bergh* case, that was the summer of 2002. That was a state case, Your Honor.

THE COURT: I know that.

MR. FISCH: Okay. I'm just explaining to you, sir.

THE COURT: Isn't that when it -- it was 2002 and you were still resisting it in '05. How about the November of 2002, you, In re: Anthony M. Fisch before the Court of Appeals for failing to obey its order to file a brief? Does that ring a bell?

MR. FISCH: No, sir. I remember that -- in fact, Mr. Shearer was involved in that. That got resolved. That was not --

MR. SHEARER: There was a time when there was someone who was working for Mr. Fisch who was masquerading as Mr. Fisch.

THE COURT: I'm sorry. Mr. Fisch was ordered to pay 500 bucks, and he didn't. Because he didn't pay -- I mean, he didn't file the brief. Now, can you show me the police report where this person imitated Fisch?

MR. FISCH: Judge --

MR. SHEARER: He was in prison. He was disbarred, a disbarred attorney that was walking around telling clients he was Mr. Fisch and signing up cases.

THE COURT: Who was that?

MR. FISCH: William Satterwhite, Your Honor.

MR. SHEARER: There was a whole length of time there when Mr. Fisch was having to respond to cases that he never even talked to anyone.

THE COURT: You're telling me that it wasn't this gentleman in *Marvin Bond versus the State of Texas?*

MR. SHEARER: No, Your Honor, I'm not saying that. I'm saying that you asked me about --

THE COURT: The trial court and the Court of Appeals was very careful --

MR. SHEARER: I don't know what the Court is talking about, a Marvin Bond case, Your Honor.

THE COURT: Fisch did not show up for court on July 30th. At about 10:00 a.m., Mr.

Satterwhite from Fisch's office appeared and said that he called him and he was too ill. Something Fisch does around here a lot.

MR. FISCH: Let me respond, Judge, because I'm the one that knows.

THE COURT: Did Satterwhite ever office with you?

MR. FISCH: No, he never officed with me. He worked with me at one time until --

THE COURT: When?

MR. *FISCH:* Judge, I would have to say 2001 to 2002, for about a year, year and a half, Your Honor.

THE COURT: Well, was it Satterwhite who called the court coordinator and said that you were at a colonic place? Was that Satterwhite?

MR. *FISCH:* No, sir, that was me.

THE COURT: That was you?

MR. FISCH: Yes, sir. I was in the sixth or seventh day of a felony DWI trial. I had come out of the trial --

THE COURT: Did you tell the deputies that were sent out there to get you that they were a bunch of Nazis?

MR. FISCH: Yes, I did, sir. Yes, I did.

THE COURT: Okay. So, this isn't Satterwhite?

MR. *FISCH:* No.

THE COURT: You were supposed to be there. You were supposed to be there, not Satterwhite.

MR. FISCH: Yes, sir.

THE COURT: Okay. And you weren't.

MR. FISCH: Let me explain, Your Honor.

THE COURT: Well, no, I just want to make sure that it's not your evil twin.

MR. FISCH: No, sir, not the Marvin Bond case, no, sir.

THE COURT: Okay. Then let me get the facts.

MR. SHEARER: Judge, in that Satterwhite case, the trial judge --

THE COURT: It's a Fisch case.

MR. SHEARER: Yes, I understand. But the trial judge told Satterwhite if he didn't disclose the location of Mr. Fisch, that he was going to be held in

contempt. This was a person who was not even a party to the case.

THE COURT: He made an appearance.

MR. SHEARER: Satterwhite wasn't an attorney.

MR. FISCH: He doesn't know. He doesn't understand. I do.

THE COURT: The judge doesn't have time to do an autopsy on people who show up and say, "I'm a lawyer from Fisch's office and he's too sick to be here." We just take you at your word.

MR. FISCH: Sir, it was -- let me -- I have a --

THE COURT: No, I'm not going to relitigate it.

MR. FISCH: I know. I just want to explain to you what happened. It was the sixth day of a DWI trial. I was at the hospital. There were medical records. I got food poisoning the sixth day of the trial, sir, that's all.

THE COURT: Why didn't you tell the court coordinator that you were at St. Luke's emergency room or something instead of a colonic place?

MR. FISCH: That's where -- because I went there first, then to Twelve Oaks. There was medical testimony, Your Honor, that I had food poisoning. They wanted to admit me into Twelve Oaks. This is not something that -- you know, the seventh day or sixth day of a trial, sir. That --

MR. SHEARER: Your Honor, I've known Mr. Fisch for a long time, and this is not someone who would run from a trial. The man loves to be in trial. If he was --

THE COURT: I'm sorry, counsel.

MR. SHEARER: If he said he'd be --

THE COURT: The experience is that he does not like to show up on time, he does not like to confer with his clients in advance, and he does not like to pick up presentence reports and other papers from the Probation Department.

The Court of Appeals and the trial court heard all that stuff, right?

MR. FISCH: No, sir. No, sir.

THE COURT: You didn't explain yourself?

MR. FISCH: I explained myself to the trial court, yes. And then it got removed from that court and Judge Underwood -- this thing was very involved, Your Honor. Judge --

THE COURT: But the question, Mr. Fisch, was did you explain yourself --

MR. FISCH: Yes, sir.

THE COURT: -- back in 2002, '3, '4, and '5 about this to two different courts?

MR. FISCH: Your Honor, I don't know what you're saying, '2, '3, '4, and '5 to two different courts, because I don't know what you're talking about. I don't know what information --

THE COURT: The report of the case is September 2004, in the Marvin Bond case.

MR. FISCH: No, Your Honor, Mr. Marvin Bond, thecase -- after six days of trial and me being ill, the case was declared a mistrial. Mr. Bond hired Mr. Shearer to handle his appeal on a double jeopardy issue. His case got resolved.

As far as mine, I don't know which one you're --I'm trying to decipher, Your Honor, which one you're talking about.

THE COURT: So, you never went back to the court and explained what you were doing?

MR. FISCH: I didn't, but my attorneys did, Your Honor, with medical documentation and so forth.

THE COURT: And who was your attorney?

MR. FISCH: Dan Cogdell and David Mitcham.

THE COURT: How about January 2003 where you were ordered by some Court of Appeal to file a brief and you didn't, Radack, Nuchia, and Hanks, whichever Court of Appeals that is?

MR. FISCH: That's the First Court of Appeals, Your Honor.

THE COURT: Well, did you get food poisoning then, too?

MR. FISCH: No, sir. The client had not been able to provide for the court transcript. I can't write the brief without the transcript. They wanted the brief at a certain time. The brief eventually got done once I got the transcript. That's all that was, sir.

THE COURT: You could have filed a brief as best you could without the transcript. It's one thing not to be able to do it well because your client has weaseled on you. It's something else simply to disobey a court order.

MR. FISCH: I wanted to protect the client, Your Honor, and I could not do that without --

THE COURT: You don't protect the client by disobeying.

MR. FISCH: Yes, sir.

THE COURT: You object; you appeal; you take exceptions; you say, "You didn't say Simon says"; or whatever you want, but you don't simply ignore a court order, and that's what you did. Isn't it?

MR. FISCH: Yes, sir.

THE COURT: How about we had another one of those in the Osani case. Do you remember that?

MR. FISCH: No, sir. That was six, seven years ago.

THE COURT: It was.

MR. FISCH: I don't. I'm sorry.

THE COURT: Well --

MR. FISCH: I remember representing Mr. Osani in numerous things across the state of Texas, but I don't remember that, no. He had numerous felonies and misdemeanors that I handled for him and very effectively. I don't remember that.

THE COURT: It's another one of those where you didn't do anything that they told you to do on appeal.

And in *Ortiz versus Texas,* you were sufficiently unprepared, that you made an oral motion for continuance without personal knowledge of the facts. Do you remember Mr. Ortiz?

MR. FISCH: No, sir.

THE COURT: What's your first name?

MR. FISCH: My first name is Abraham.

THE COURT: Have you ever reported to this Court the disciplinary actions against you in state court?

MR. FISCH: To this Court?

THE COURT: Yes, sir.

MR. FISCH: I don't know, sir. That was 16, 17 years ago.

THE COURT: Well --

MR. FISCH: I remember, Your Honor, years ago having to produce some things at the attorney admissions office in the mid-Nineties.

THE COURT: And on January 7th, 1996, you applied for a renewal of your admission to the Bar here and 10 says, "If after your admission you have been disciplined by a bar or a court, charged or convicted, please supply that information." No information. And yet in 1994 there is an agreed judgment of public reprimand, isn't there?

MR. FISCH: Well, from something that happened in 19 --

THE COURT: Isn't there? Two years before you submitted this to this Court, you had entered an agreed judgment of public reprimand and failed to disclose it 16 months later.

MR. FISCH: No, that's not true, sir, because I turned over all the documentation to the attorney admissions office.

THE COURT: You didn't. This is your file. It's not there.

MR. FISCH: That's not something I've ever hid, Your Honor. It's not something --

THE COURT: It is something that you've hidden.

MR. FISCH: How could you hide something that's public record, Your Honor?

THE COURT: Oh, Mr. Fisch --

MR. FISCH: Judge, I just feel like you're wanting to castigate me for things that happened 14, 15 years ago in my life.

THE COURT: No, I just want you to tell the truth every once in a while.

MR. FISCH: I am. I am, sir.

THE COURT: On this form you misrepresented your disciplinary status to the Bar to get your license renewed 16 months after an agreed judgment. And this form does not say, "Go look it up. It's a public record." You were asked to disclose it. Your phone number was a public record, too, Blank 5, wasn't it?

MR. FISCH: Sir, that's over ten years ago. I don't remember that.

THE COURT: Your phone number is a public record, isn't it?

MR. FISCH: Yes, sir.

THE COURT: But you didn't tell -- you didn't leave the phone number, Blank 5, empty, did you?

MR. FISCH: Sir, I don't know. I haven't seen that form.

THE COURT: Well, I'd hand it to you, but I'm afraid you'd tear it up. Go make him a copy of it, please, ma'am.

THE CASE MANAGER: Yes, sir.

THE COURT: Now, that '94 reprimand was about Albert Ray Edwards. Do you remember SergioMedina and a judgment of public reprimand? Do you remember Sergio Medina and a public reprimand?

MR. FISCH: I try not to, Your Honor. That was 16 years ago.

THE COURT: It was 13 years ago.

MR. FISCH: Well, it occurred in 1990, Your Honor, and then the actual judgment came down several years later, from what I remember. That's what I remember, Your Honor.

THE COURT: So, there are two judgments that were not disclosed on that form, right?

MR. FISCH: From what I remember, Your Honor, I turned over all the documentation. I didn't hide this from the federal government.

THE COURT: What's the date on that one? '96?

MR. SHEARER: January 14th, 1997.

THE COURT: There's a renewal form dated January '92, also, but I guess that was just before the judgments came down, right? Here's a renewal form in '01 with no disclosure, right? Or is it your testimony that at least two of these renewal forms, you attached all of the documents? Is that your testimony?

MR. FISCH: Sir, that would have been 13, 14 years ago.

THE COURT: No, '01 is five years ago.

MR. FISCH: Well, if you attached them 13 years ago, you wouldn't attach them again every single time. Would you be required to do that?

THE COURT: It says, "If after your admission to the Bar of this Court, you have been disciplined."

MR. FISCH: Well, if they had it one time, why --

THE COURT: You know, counsel, let's just assume that none of this makes any sense, and I'm willing to assume that.

It may be the money laundering statute, of which Ms. Annis is so fond of, doesn't make any sense.

MR. FISCH: Yes, sir.

THE COURT: It is the law and this is the says, "If after your admission," but you didn't do it the first time. And it does not say attach a bunch of stuff and send it in. It says, "On a separate sheet of paper, describe." You didn't do that, by your own admission. You're now swearing you just sent all the papers in, but that's not on a separate sheet of paper describing, is it?

MR. FISCH: From what you're saying, Your Honor --

THE COURT: Well, do you think it is? You didn't do it. So, it's just sort of academic whether it's describing or not.

(Mr. Fisch conferring with Mr. Shearer.)

THE COURT: Mr. Shearer, are you familiar with that form?

MR. SHEARER: I am not, Your Honor.

THE COURT: I didn't think so, because your admission to practice in this Court has lapsed.

MR. SHEARER: I was unaware of that.

THE COURT: You should have been familiar with it, because you did apply for renewal in 1998. So, you've seen the form, or Satterwhite signed it for you, whatever your story is.

MR. SHEARER: No.

THE COURT: But you need to find Satterwhite and get him to do it again, because you may not practice in this Court because you haven't done your paperwork.

MR. SHEARER: Your Honor, I received a certificate of good standing.

THE COURT: This morning?

MR. SHEARER: Two years ago.

THE COURT: Well, I suspect two years ago it would have been on time. Do you want to know the exact date you received being in good standing? The confusion is I don't remember when we went from four- to five-year increments, but your license expired in '93. Your last admission certificate I have is '98.

MR. SHEARER: My license expired in '93?

THE COURT: To practice here.

MR. SHEARER: I wasn't even -- I just got my license in '93. That's when I passed the Bar.

THE COURT: '93?

MR. SHEARER: Yes, sir.

THE COURT: Okay. In '98 you got a license that expired in 2003.

MR. SHEARER: I'm sorry. 2003. You said "'93."

THE COURT: Okay. Well, you're lucky I didn't say "'47." It's hard when you have to remember all these decades.

And did the State Bar of Texas have anything to say, Mr. Shearer, about your contempt of court?

MR. SHEARER: What contempt of court, Your Honor?

THE COURT: The First Supreme Judicial District of Texas.

MR. SHEARER: No, Your Honor, the State Bar refused to touch that one.

THE COURT: Well, my guess is they figured that you had been held in contempt, so they didn't want to do anything, but --

MR. SHEARER: Actually, Your Honor, factually the Court of Appeals is wrong.

THE COURT: You know, that's my position about 90 percent of the time, at least when it includes the word "reversed." But the fact is you were adjudicated in contempt, you contested it as a habeas corpus matter in this courthouse and lost.

MR. SHEARER: That's correct.

THE COURT: So, you've had your hearing, your appeal, and your collateral review and the unanimous verdict is --

MR. SHEARER: And I accept that and from now on I send my paperwork to the Court of Appeals certified mail.

THE COURT: You sent the brief and the Court of Appeals lost it?

MR. SHEARER: No. I sent the response to the reason why the brief was late noncertified from the city post office and put two stamps on the letter instead of driving to the airport and sending

it certified, because the post office here was closed when I sent the letter to the Court of Appeals. They say they didn't receive it. I have a copy of the notary receipt where I notarized the statement that went to the Court of Appeals. I showed the Court of Appeals a copy of my computer screen showing the date that it was finished. And despite all that, they still maintained that I was in contempt because they did not receive it. Whether it was lost by them or the post office, it doesn't really matter.

THE COURT: And did you lose the order about showing up in the trial court about the status of the appeal in, what, poor 'ol Shagroun, I guess was his name, Shagroun? S-h-a-g-r-o-u-n.

MR. SHEARER: In that situation I had Mr. Shagroun's littering appeal due on one date. I got a call the day before from a client who finally decided they wanted to do a PDR on an aggravated sexual assault case. I couldn't do both at once. So, I did the more serious case first, then did Mr. Shagroun's case. I explained that in my letter to the Court of Appeals, which they say they didn't receive.

THE COURT: The Local Rule 3A says, "A lawyer subjected to a published reprimand by a State

Bar shall notify the clerk of court." You didn't do that, did you?

MR. SHEARER: I wasn't reprimanded by the State Bar.

THE COURT: I'm sorry. Mr. Fisch, you didn't do that?

MR. FISCH: Judge, I do not remember. I remember bringing documentation down here to --

THE COURT: Well, no, we discussed the renewal business.

MR. FISCH: Yes, sir.

THE COURT: That's different. There is a continuing affirmative duty in the rules, in the absence of the need --and, Mr. Shearer, a lawyer -- now, I'm sorry, I lapsed there. Mr. Shagroun, in a case where you were counsel of record, had to explain to the trial court for findings of fact whether he had abandoned his appeal or something else in aid of the Court of Appeals. And you're explaining to me why you didn't show up.

MR. SHEARER: I'm sorry, didn't show up to the trial court?

THE COURT: Yes, sir. I was relying on Judge Hoyt's recitation of the facts.

MR. SHEARER: I don't know -- I don't know or recall why I wasn't at the trial court remand hearing. I'm sure it was because I was probably in another court. But I don't know if I received notice of that hearing.

THE COURT: Well, in the second show cause you attempted to file a brief and filed it a day late but did not respond to the court's order and the court then declined to accept the brief and ordered you to appear.

MR. SHEARER: Your Honor, we can -- I mean, Mr. Fisch and I've been in practice for many, many years and we're both very busy. It's almost impossible for any attorney not to have some problems along the way. You haven't discussed all of Mr. Fisch's not guilty verdicts recently or my reversals in the Court of Criminal Appeals. Some of these cases I've done pro bono. I don't know why we're going through these litany of errors.

THE COURT: We're going because you're not qualified to be here today and neither is Mr. Fisch. I cannot allow his client to spend his family's money to hire a lawyer who will not be here when he's supposed to and will not be prepared.

MR. FISCH: That's -- sir, and you can talk to Judge Hittner. You said you have lunch with him once a week. Ask him how prepared I was just three months ago. I was on time for every hearing, never late, showed up early. People make mistakes, Your Honor. You can't hold it against a man that learned from that. I have.

THE COURT : There's no evidence you have learned.

MR. FISCH: That's not true, sir.

THE COURT: I'm sorry, it is true.

MR. FISCH: Then Judge Hittner is lying on what he told me just three weeks ago.

THE COURT: Well, you're a better man than I to call Hittner a liar.

MR. FISCH: I'm not calling him a liar. I'm saying he personally told me that I did a fine job in that trial in that case, personally. His court staff told me personally, Ellen Alexander, that I did a fine job. I was on time for every hearing. I was prepared. I read through thousands of pages of transcripts. I went through over a two-week trial. I sat through one of the first trials. I was extremely

prepared, because any human being, Your Honor, that's ever made a mistake, hopefully we learn from that. I have, sir. You asked for proof. I'm giving you proof. Just --

THE COURT: One trial before Hittner.

MR. FISCH: Excuse me, sir?

THE COURT: One trial before Hittner.

MR. SHEARER: Your Honor, Mr. Fisch three months ago tried a big case and got a not guilty on a large marijuana case, got a not guilty on a murder case.

MR. FISCH: The last few years I've been extremely --

MR. SHEARER: We've tried a double intoxication manslaughter case in Bastrop and got probation for the client, and it was in the newspaper. I mean, we're good lawyers.

THE COURT: Lord, I hope not. I would shudder to think for the sake of the public and their Republic that you guys are average.

MR. FISCH: No, sir, I'm not average. And Judge Hittner told me I was not average. And taking -- coming from someone like him, I took that very

serious. He said I was very prepared, very professional, never late for a hearing, never late for a day of trial, every single time early. That can be verified, Your Honor.

THE COURT: Your grandmother might have told you even a blind hog finds an acorn now and then.

MR. FISCH: Well, as my source -- I'll put my trial record up against anybody in the state.

THE COURT: Well, unfortunately my problem is seeing that Michael Goodson gets a fair trial --

MR. FISCH: Yes, sir.

THE COURT: -- and does not build in error so that the government has to retry it, or any of us, including

Mr. Goodson --

MR. FISCH: Your Honor --

THE COURT: -- goes through any wasted effort in our earnest desire to furnish him with due process of law.

MR. FISCH: Yes, sir.

THE COURT: Having you as counsel of record is an automatic habeas corpus.

MR. FISCH: That is not true, sir.

THE COURT: I have the authority, Mr. Shearer, to police the conduct of this Court. I do not have to get a lobotomy every time I convene a trial and forget everything I've learned in the process thus far. Mr. Goodson needs a fair trial. I'm going to see that he gets it. I don't know what Mr. Goodson may know about lawyers, but by the explanation I've gotten this afternoon, Mr. Goodson has gotten a referral from a nine-time loser -- how many counts was your client convicted of before Judge Hittner?

MR. FISCH: Nine.

THE COURT: Nine. So --

MR. FISCH: But that's a pretty good referral, I'd say, from someone that went to trial and lost and saw his counsel fight for him, do a good job in front of one of the toughest federal judges probably in the country, a man that I have the utmost respect for, and obviously you do, too. And if -- I'm just telling you -- I'm asking you, you can ask him. You said you have lunch with him once a week. If I'm making this up, then --

THE COURT: Hittner doesn't have to try United States versus Goodson. I do.

MR. FISCH: You're asking me, Your Honor -- you said, sir, what guarantee do I have that -- I just told you.

THE COURT: I think I asked what evidence.

MR. FISCH: But that's not good enough. It's like the bar --

THE COURT: No, you standing there telling me something is not --

MR. FISCH: I'm not telling you, Your Honor. I'm saying you can verify it very easy. Judge Hittner is on the eighth floor. You say you have lunch with him once a week. I'm not making this up, sir.

THE COURT: Well, so Hittner said something nice to you. Maybe he felt sorry for you.

MR. FISCH: No, sir.

THE COURT: Was it on the record?

MR. FISCH: All right, Your Honor.

THE COURT: Was it? Was it on the record?

MR. FISCH: Call his court coordinator, Ms. Ellen Alexander, ask her the type of job I did, ask her how proficient I was, how on time I was, how professional I was, sir.

THE COURT: I take it the answer to my question is, "No, sir, it was not on the record"?

MR. FISCH: Well, there were lots of things on the record in this trial, Your Honor.

THE COURT: What's that mean?

MR. FISCH: You've asked me, Your Honor, I'm telling you.

THE COURT: Mr. Goodson —

THE DEFENDANT: Yes, sir.

THE COURT: -- do you understand what's going on here?

THE DEFENDANT: I 'm figuring it out -- I'm still trying to figure it out, Judge.

THE COURT: And I'm not trying to make your life more difficult. I am trying to make sure you get a fair trial, which if you lose will stand up on appeal and if you win, of course, there is no appeal.

THE DEFENDANT: Yes, sir.

THE COURT: So, but I don't want to put you to a trial, the United States to a trial, or me to a trial which has a high probability of being fouled by the inability of the defense lawyer to meet his responsibilities.

THE DEFENDANT: I understand.

THE COURT: And if you insist on Mr. Fisch, that's fine. He will have to get co-counsel and not a contumacious, unlicensed lawyer. Because I cannot rely on Mr. Fisch showing up and I don't remember the excuses -- and was it Berger, was that the name of my case?

THE CASE MANAGER: Bergh.

THE COURT: Bergh.

MR. FISCH: What excuses, Your Honor? I had legitimate reasons. I documented it to the Court. I had a serious athletic injury. It's in the file, Your Honor. I mean, I'll take disparagement --

THE COURT: In what file?

MR. FISCH: It's in the Court's file, Your Honor. I looked at it last week.

THE COURT: You mean, the *Bergh* file?

MR. FISCH: Yes, sir. I'll take disparagement for something that I did, Your Honor, but not for something that I did not do.

THE COURT: And what did your sports injury have to do with you not having picked up the presentence report for the month that it was available and then claiming the following Monday to have a sports injury or something else?

MR. FISCH: Judge --

THE COURT: And I'm not as dumb as I look, Fisch. You can go to any doctor, tell them anything, and they write down what you tell them.

MR. *FISCH:* I was in ten trials that year, Your Honor. I had trouble walking. I'm not making anything up. But there's nothing that I can say --

THE COURT: You had so much trouble you couldn't send somebody to get the presentence report and you didn't call up here and ask the case manager to reset the sentencing because you'd been too sick to get the presentence report.

MR. FISCH: I asked --

THE COURT: In fact, I think the excuse that day was that you had been called to trial in Dallas and were on your way to the airport.

MR. FISCH: I try a lot of cases, Your Honor.

THE COURT: And, you know, that's not an excuse for doing any of them poorly.

MR. FISCH: Well, Judge, I have not done a trial poorly. Yes, Your Honor, I missed a hearing in front of you. I apologize to you sir.

THE COURT: You missed four or five settings in that case.

MR. FISCH: Your Honor, I was having difficulty even walking. I was using a cane.

THE COURT: No, you were having difficulty thinking.

MR. FISCH: No, I was not sir.

THE COURT: Now, my recollection is that at no occasion in that case did you limp.

MR. FISCH: Sir, you know --

THE COURT: What was wrong with you?

MR. FISCH: I had serious tendonitits in my left hip and my left groin and my right hip, I believe, at the time, Your Honor, because I used to power lift. And in the early Nineties I was into power lifting. I was actually very good. And I suffered some injuries because of that, sir.

THE COURT: Well, a lot of people have tendonitis, take some Advil, and go to work.

MR. FISCH: Sir, I could hardly walk.

THE COURT: At no time in your appearances in that case and the after the end of the trial appearances did you limp, did you have ambulatory assistance, or anything else that would suggest objective manifestations of injury.

MR. FISCH: I was down for three weeks flat on my back, Your Honor. I could not walk. And then I was going through very intensive therapy at a clinic here in Houston.

THE COURT: You could walk well enough to get in the car and say you were going to airport because you had been called to trial somewhere.

MR. FISCH: That's correct.

THE COURT: And lying flat on your back --

MR. FISCH: Yes, sir.

THE COURT: -- you could pick up the phone and call Hotshot and have the PSI delivered to you.

MR. FISCH: Yes, sir.

THE COURT: You could have.

MR. FISCH: Yes, sir, I could have, yes.

THE COURT: Mr. Shearer, unlicensed lawyer Shearer, do you have any other points you want to make? The ones you made in your motion, of course, have nothing to do with the actual problem here, which is my responsibility to see that Goodson's trial is conducted competently.

MR. SHEARER: One point, Your Honor, would be neither I nor Mr. Fisch have ever been found to be ineffective, as far as I know.

THE COURT: Well, you're not licensed. And allowing an unlicensed lawyer -- a licensed -- a lawyer unlicensed by neglect and one who's been found in contempt for neglect to appear in this case would be opening the door.

MR. SHEARER: Of course, Your Honor, I would renew my license before starting any case.

THE COURT: Over my vote. Mr. Fisch has been found to be ineffective. He has consented to two judgments. A professional did not. And, of course, there's mine. That's three adjudications, plus whatever the rest of those cases ultimately mean.

MR. SHEARER: That's not the same as ineffective assistance of counsel during a trial.

THE COURT: No, but I'm not obliged to let anybody wander in here and mess up very expensive proceedings.

MR. SHEARER: Well, Your Honor, if Mr. Fisch and I are -- are we the only ones that have ever had any sort of problems? I mean, that would clean out most of the lawyers that practice in your courtroom, if they've ever had a public or a private reprimand in the last 20 years.

THE COURT: When were you licensed?

MR. SHEARER: I was licensed in 1993.

THE COURT: That's not 20 years, is it?

MR. SHEARER: Well, Mr. Fisch has been licensed ten years longer --

THE COURT: You said 20 years, and you included both of you. You're wrong by 40 percent. You're not even good at arithmetic.

MR. SHEARER: I'm not good at arithmetic, I admit that.

THE COURT: That is the same thing as the motorist who stops -- is stopped on the Katy Freeway for speeding and he says, "Well, wait a minute. Everybody else is speeding, too."

MR. SHEARER: Well, those attorneys are still licensed and allowed to practice in your courtroom.

THE COURT: Yes, they are if they've admitted them and they tell the truth in their renewals and a whole bunch of other conditions that neither one of you-all can meet.

It is my conclusion that Fisch's dependability is not just below average, but it is abysmal.

MR. FISCH: That's not true, sir. I just came out of a lengthy federal trial right here in this building.

THE COURT: And you can repeat that all afternoon, Mr. Fisch, but it doesn't make it credible.

MR. FISCII: Well, Your Honor --

THE COURT: You got one right.

MR. FISCII: I got one right? I've gotten more than one right, sir. It's not right. I mean, I can take responsibility for the things I've done, Your Honor, but I've just come through the fire in ine of the most difficult places to try a case and I was –

THE COURT: Save that for your mother.

MR. FISCII: Now, look, my mother's dead, Your Honor.

THE COURT: Well, then save it till you meet her. Mr. Fisch --

MR. FISCH: A man cannot learn from his mistakes, Your Honor?

THE COURT: A man can learn from his mistakes.

MR. FISCH: Okay.

THE COURT: But there's no evidence you're doing it.

MR. FISCH: That's not true, sir. You said there's no evidence and I just give it to you and you say there's no evidence of it.

THE COURT: No. What you give me is a little smoke - -

MR. FISCH: No, it's not a - -

THE COURT: - - a little mirror, and a lot of whining.

MR. FISCH: No, sir. I apologize if it comes off like whining, because to sit here and have to be disparaged and put down for things that I'm not responsible for.

THE COURT: You're not being disbarred.

MR. FISCH: Disparaged. Disparaged.

MR. SHEARER : Disparaged.

MR. FISCH: Disparaged, Your Honor, means

THE COURT: He's right, disparaged. I know what disparaged means.

MR. FISCH: Well, I'm from New York, Your Honor, I'm sorry, my accent may be --

THE COURT: Disparage actually means marrying beneath you. That's the origin of the term. So, we're not really talking about marrying beneath you. We're talking about practicing beneath you.

MR. FISCH: Yes, sir. You've asked me - you say, no, there's no evidence that I can trust you is what it comes down to and --

THE COURT: Exactly.

MR. FISCH: Okay. And I understand that, Your Honor. And the only thing I can tell you is past conduct, not four years ago, not six years ago, remote, because that shows, hey, that is evidence of a changed heart.

THE COURT: I'm sorry, four years is not remote when it's four years ago was the third strike.

MR. FISCH: Sir - -

THE COURT: My concern is that Mr. Goodson not go away for 80 years because you have tendonitis and colon problems.

MR. FISCH: Sir - -

THE COURT: I hope they're different problems.

MR. FISCH: They are.

THE COURT : Okay.

MR. FISCH: But they happen to come -- I was going through a string of back to back to back trials, mind you, that all were acquittals, I think six or seven in a row, mind you, and that's why I said I put my trial record against anybody in the state. But Mr. Goodson --

THE COURT: Yeah, you can really do a bad job and be acquitted. All you have to do is have Annis or somebody do a worse job.

MR. FISCH: You asked --

MR. SHEARER: I wish it were that easy.

MR. *FISCH:* Yeah.

THE COURT: It is sometimes.

MR. FISCH: I can promise you, Your Honor -- let me say this, I can promise you, Your Honor -- you said you have --and I'm not -- I know you don't want to hear it again. I know Judge Hittner is not going to say something he does not mean.

THE COURT: I tell you what, I'm going to tell you, I'm going to call Dodger Dave.

MR. FISCH: Thank you.

THE COURT: You know, he's from New York, too.

MR. FISCH: I know he is. He's from Brooklyn. I'm from the Bronx.

THE COURT: Well, does he still speak to you?

MR. FISCH: Yes, he does, sir.

MR. SHEARER: I'm from Alabama. I don't know if that helps or hurts.

THE COURT: I don't know. I went to college there. They gave me a degree on the condition that I leave the state.

MR. FISCH: I mean, Judge, I understand your concerns, I really do, and I'm not sitting here -- I'm not trying to skirt that. But I'm not what you think I am, Your Honor. And that's why I keep trying to reiterate that. The proofs in the pudding. And I apologize to you for what happened during the *Bergh* case. I look you in the eyes and I humbly accept it and I humbly accept any type of negative --

THE COURT: Well, who are you going apologize to for the misstatements in your renewal applications?

MR. FISCH: Judge, and I'll tell you this, from the best I remember, in 1995 and '94, when that came down, I turned over -- I notified somebody down at the attorney admissions office. It used to be on the sixth floor --

THE COURT: And they're just like the Court of Appeals. They lost his brief. They lost --

MR. FISCH: Judge, I've represented thousands of clients. I've had over 200 jury trials in my 20 years. I've been practicing 20 years. My grandfather was a lawyer. My dad was a lawyer. I take this serious. I'm not sitting here looking you in the eye and telling you something that's not true. I know you have a responsibility to Mr. Goodson.

Mr. Goodson told you how he came to me, from Mr. Eric Craft, who was --

THE COURT: I believe that. He knows --

MR. FISCH: I never was -- I was early for every hearing, Your Honor. I was early every day for trial. I never missed anything. I was conscientious. I called. All a man can do or human being can do, Your

Honor, who has made some mistakes as a human being, is to learn from them, which I have done.

THE COURT: Not at the expense of Mr. Goodson or the people of the United States. My order subsists. You may not represent him here. If he wants you to advise him, that's fine. He can have you advise him. But you may not appear in court. He'll have to have somebody else appear in court. You may sit, but I'm not going to be dependent on you. You may sat at counsel table. But he has to have a responsible, reliable counsel

MR. FISCH: He does.

THE COURT: No, he doesn't.

MR. FISCH: Yes, he does, sir. I've asked you kindly -- you can do this, Judge, you can pick up the phone and call Judge Hittner and ask him how I performed and ask him if I was there on time and ask --

THE COURT: Mr. Fisch, we've been through this.

MR. FISCH: No, we haven't.

THE COURT: I'm going to talk to Dodger Dave--

MR. FISCH: Thank you.

THE COURT: -- and --

MR. FISCH You're holding me -- it's --

THE COURT: I am holding you to the same standards that everybody else gets held to. Ms. Annis, where are we on the substance of this? I mean, he's in custody.

MR. FISCH: There's a superseding indictment, is what we were talking about.

M.S. ANNIS: We have a docket control order, I think, that requires me to answer motions by May the 1st and I have told counsel that we are seriously proceeding with additional charges in front of the grand jury that haven't happened yet, but that will in the very near future.

THE COURT: All right. How many counts of what do you have?

MS. ANNIS: Right now it's a one-count indictment. It's a conspiracy to engage in mail and wire fraud, Your Honor.

THE COURT: And your thinking is there will be four or five more counts or just -- and I don't want you to tell me any secret, obviously.

MS. ANNIS: Right. It's -- basically what I've told counsel is we're looking at putting some substantive wire and mail fraud counts, Your Honor, as well as money laundering into the indictment and it will just be a handful of counts.

THE COURT: Of course, you could explain this to Mr. Goodson when he gets a lawyer and you might not have to do that if you-all could reach an amicable resolution without an additional layer of paperwork, but I don't -- Mr. Goodson --

THE DEFENDANT: Yes, sir.

THE COURT: -- all I know about the case is that she filed it and he showed up. I don't know anything about the merits.

THE DEFENDANT: Yes, Your Honor.

THE COURT: But it's obviously at its initial stages.

MS. ANNIS: Yes, sir.

THE COURT: Do you have any questions, not about the substance of the case, but about the problems that the Court has with Mr. Fisch?

THE DEFENDANT: No, Your Honor. I think I got it.

THE COURT: And my concern is that the United States can't furnish you a lawyer if you can afford one and if you can afford to pay Fisch, you can afford one And Mr. Shearer says I've got no business talking about the attorney-client relationship, but that's just another mistake he's made. It's my concern that I not sit here and watch somebody take your money and not do their job. Mr. Fisch is not able to represent you as trial counsel in this Court. And, so, Mr. Shearer is semi-right, in that the arrangement you make is up to you. But you're not exactly in a position to drive a hard bargain with anybody.

THE DEFENDANT: Yes, Your Honor.

THE COURT: You've got the United States against you, and you're locked up.

THE DEFENDANT: Yes, sir.

THE COURT: So, you have a negotiating problem.

THE DEFENDANT: Yes, sir.

THE COURT: That I'm just going to make sure that -- or try to make sure that you don't get -- did you know anything about this discipline that Fisch had had?

THE DEFENDANT: No, sir, I didn't.

THE COURT: Do you know anything about his -- did he tell you about his 200 acquittals?

MR. FISCH: I never said 200 acquittals, Your Honor.

THE DEFENDANT: No, sir.

THE COURT: 200 jury trials.

MR. FISCH: Yes, sir.

THE COURT: All right. Do you want to make a big deal out of that, Fisch?

MR. FISCH: No, sir, it's just --

THE COURT: How many acquittals?

MR. FISCH: Quite a few, Your Honor.

THE COURT: Well, no. How many?

MR. FISCH: Well, I'm not going to keep track. Quite a few, a lot.

THE COURT: Okay. You kept track of the 200 jury trials enough to take offense.

MR. FISCH: 60 to 70 percent of my trials, Your Honor, at least have been acquittals,

THE COURT: Do we have anything scheduled the next two weeks?

MR. FISCH: Yes.

MS. ANNIS: I think the pretrial conference is in June, Your Honor, and the trial is scheduled June the 13th.

THE COURT: Well, I'm going to give Mr. Goodson more time --

MS. ANNIS: Sure. Sure.

THE COURT: -- if he needs it. But I would like you to decide what you're going to do and try to get it done in the next ten days or so, so your lawyer can show up and she can get back to work and he can get to work.

THE DEFENDANT: Yes, sir.

THE COURT: So, can he call you? I guess he shouldn't.

MS. ANNIS: No, sir. I had heard from Michael Hinton originally. Mr. Goodson was trying to hire him. And when that didn't work out, ultimately he got court appointed counsel and then the day of the detention hearing, Mr. Fisch was hired apparently.

THE COURT: I'm going to ask Mr. Bray from the Public Defender's Office that you had there for a couple of days to check in on you in a week or so.

THE DEFENDANT: Okay.

THE COURT: Does that sound all right? What will happen, I don't want you to be over -- because it's very difficult for you to communicate with me or anybody.

THE DEFENDANT: Yes, sir.

THE COURT: And so I just want to have a backstop to know that you don't get forgotten over there. So, sometime in the next week, I'll ask Peter Bray to come by and just check with you and make sure that you're able to contact who you need to.

Yes, ma'am.

MS. ANNIS: Would that include maybe Mr. Bray explaining to Mr. Goodson what his rights are with regard to under the Sixth Amendment as far as competency of counsel and helping -- I mean, having an informed decision made before the Court?

THE COURT: I'll ask him to do that, but the point is you're entitled to a lawyer of your choice as long as they're effective, because that's what we're -- we're not trying to just get you a lawyer. We can get you a suit. They're cheap.

But what the Constitution has guaranteed you is a lawyer who can adequately present your side of the case and perhaps more importantly, in a criminal case, point out the defects in the government's case. And so I'm trying to make sure you have effective assistance of counsel, not just a lawyer.

THE DEFENDANT: All right.

MR. SHEARER: Mr. Goodson has effective assistance of counsel now with Mr. Fisch.

THE COURT : Shhhhh.

MR. SHEARER : I think we have to object on Mr. Goodson's behalf under the Sixth Amendment.

THE COURT: Shhhhh. I've already said rather clearly that Mr. Goodson can have all the counsel and advice from Mr. Fisch that he wants.

MR. FISCH: Judge, that's not what he wants, Your Honor. That's not what he wants.

THE COURT: I don't know what he wants, but he's going to think about it for a couple of days.

MR. FISCH: That's fine.

THE COURT: He's going to think -- and you're going to be quiet for a minute --

MR. FISCH: Yes, sir.

THE COURT: -- and I'm going to talk to Mr. Goodson.

MR. FISCH: Yes, sir.

THE COURT: You can have Fisch give you all the advice you want. You can have Shearer. Neither one of them may appear in the formal processes here. So, you just have -- I mean, in most civil cases there are four or five lawyers on both sides. That's not the least bit unusual. And as you've seen watching television, there are other trials in the building where people have a bunch of lawyers.

I need somebody who will -- I'll be able to look in the eye and tell to do something and they'll do it or they'll be here for me to tell them to do that. And so you may have Fisch, I want to make that absolutely clear, but I have to have somebody who is responsible and reliable to be in court, because one day we'll have 14 nice people there and a bunch of agents and witnesses for you and people here, and it all has to work, not quite like clockwork, but a reasonably well-oiled machine. And it's my hope that this won't delay your trial.

MR. SHEARER: Your Honor, would the Court consider lesser sanctions? The Court could ask Mr. Fisch to put up a bond to secure his appearance. You could do a lot of things less than removing Mr. Fisch from his client. Because this whole process it seems to be designed so that Mr. Goodson will hear all the bad things that Mr. Fisch has done through his career to put a wedge between the defendant and Mr. Fisch. And I think Mr. Goodson has a Sixth Amendment right of counsel of his choice. He hired Mr. Fisch, Mr. Fisch is here, has made his appearances.

THE COURT: And I have a Sixth Amendment responsibility to make sure that he understands the consequences of his exercising his Sixth Amendment right. I spend a whole lot of my time convincing people in Mr. Goodson's shape not to fire their lawyer and to keep their lawyer because in their circumstances they desperately need a lawyer. I don't tell them to keep a bad lawyer, though, but go find them a competent lawyer. And I'm not saying he has to fire him. Mr. Goodson is not stupid. He didn't know a whole bunch of criminal lawyers apparently and he --

MR. SHEARER: The Court is inserting itself into contractual relationships.

THE COURT: Yes, I am. Don't raise that again. I have addressed that, and you're wrong. The proceeding in here is noncontractual. This is not a contract. And whether Fisch can appear in here is a function of my decision on how this can be run in the public interest, meeting my responsibility, hers, and whoever is here for Mr. Goodson's responsibilities under the Constitution.

MR. FISCH: Judge, could I ask you something, please?

MR. SHEARER: Just a second. The government has made no motion to recuse Mr. Fisch.

THE COURT: Well, that's belaboring the obvious. I can't get Annis to do anything.

MR. FISCH: Judge, can I just interject here for a second?

THE COURT: What's that got to do with anything?

MR. SHEARER: Well, you said that --

THE COURT: What has that got to do with anything?

MR. SHEARER: Well, you said the government has a responsibility to ensure that the defendant has adequate counsel and she --

THE COURT: No, they have a responsibility to assure the trial is conducted responsibly.

MR. FISCH: Your Honor, all I'm asking --

THE COURT: Although I have had cases where counsel for the United States has come and said, "I am not confident that we will not build error into this case by trying it under the circumstances of current counsel for the defendant," something that I appreciate having brought to my attention, because I don't know everybody. And I don't necessarily believe them after it's been brought up.

MR. SHEARER: At this point Mr. Fisch is a licensed attorney in good standing in this Court.

THE COURT: He's not in good standing.

MR. SHEARER: We've attached a letter of good standing with the motion.

THE COURT: You attached a letter what?

MR. SHEARER: Of good standing from the district clerk's office to the motion.

THE COURT: And did Cynthia Horace know about the omissions from his last two renewals? No. This is a certificate procured by fraud.

MR. FISCH: No, sir.

THE COURT: Lord, what a couple of pettifoggers.

MR. FISCH: I'm sorry, I have to take umbrage with that, Your Honor, because that's not true.

THE COURT: What's not true?

MR. FISCH: Mr. Goodson has a Sixth Amendment right to counsel of his choice, not someone to sit here and advise him. He's hired me because he wants me to try his case because he knows that I'm a good trial lawyer, because my client Mr. Eric Craft, the case I just tried in this --

THE COURT: No, don't do that again.

MR. FISCH: Well, Judge, you want to hold -- you only want to hold me responsible for things that happened in the past, but yet you don't want to give me any credit --

THE COURT: That's what Charlie Manson says every few years.

MR. FISCH: Excuse me. I'm not Charlie Manson.

THE COURT: You interrupt me one more time and you're going to be over there with Mr. Goodson.

MR. FISCH: I understand, Your Honor. But, Judge --

THE COURT: Charlie Manson every two years tells the Pardons and Paroles Board of California that they're just harping on ancient history.

MR. FISCH: I'm asking -- all I'm asking for, Your Honor, this is what I'm asking for --

THE COURT: No, you have asked it, and I have said no two or three times.

MR. FISCH: Why? What are you scared to find out, Your Honor, the truth, that I'm not what you think I am? Because that's --

THE COURT: Well, so far Hittner and I are liars and I'm scared.

MR. FISCH: No, sir.

THE COURT: So, I think that pretty well sums it up.

MR. FISCH: You have made numerous allegations. I have just --

THE COURT: No, I haven't made allegations. I have made findings and conclusions --

MR. FISCH: I just can't --

THE COURT: -- based on direct personal experience and the revelation of the records of this Court. Enough, Mr. Fisch. Hold your peace.

MR. FISCH: Yes, sir.

THE COURT: Mr. Bray will visit with your client.

MR. FISCH: He doesn't want Mr. -- Mr. Bray has already visited with him. You have no idea the relationship I have with my client. Mr. Bray -- he wasn't satisfied with Mr. Bray's representation, that's why he hired me.

THE COURT: Mr. Bray, as a friend of the Court, will visit with Mr. Goodson to see that he has made the progress he chooses to make. But that is only my account, to make sure that he doesn't get lost in the

detention center and can never get another lawyer and we're coming up on the trial date and no lawyer wants to take the case.

MR. FISCH: He's not lost. I see him once or twice a week, Your Honor. I go over there diligently.

THE COURT: Keep doing it --

MR. FISCH: I am.

THE COURT: -- but I can't rely on that.

MR. FISCH: Well, Judge, you can rely on what another federal judge says. And I implore you, before you make a decision, before you brandish me, before you judge me, just do that.

THE COURT: As Judge Hittner often says when a lawyer cites me to him, he says, "Uh-huh, Hughes, respected, but not followed."

Anything, Ms. Annis?

MS. ANNIS: No, sir.

MR. SHEARER: Your Honor, can we get a ruling on our motion to quash and motion to dismiss?

THE COURT: What did you think you've been getting?

MR. SHEARER: Well, I would just like to have it on the record.

THE COURT: I'm going to go back and do an order, so you'll have a written order.

MR. SHEARER: Thank you, Your Honor.

THE COURT: Anything else?

MS. ANNIS: No, sir.

MR. SHEARER: No, Your Honor.

THE COURT: I'm sending a message around to the --letting everybody know of you're not in good standing. Anything else, Mr. Fisch?

MR. FISCH: No, sir.

THE COURT: Thank you.

(Concluded at 2:50 p.m.)

* * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled cause, to the best of my ability.

8-2-06

DATE

/s/ Kathy L. Metzger
Kathy L. Metzger
Official Court Reporter

RECOMMENDATION ON RENEWAL TO PRACTICE AND ATTORNEY FISCH'S REQUEST FOR A HEARING

UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF TEXAS
P.O. BOX 61010
HOUSTON, TEXAS 77208

MICHAEL N. MILBY
CLERK OF COURT

www.txs.uscourts.gov
713.250.5371

February 28, 2007

Mr. Abraham M. Fisch
Attorney at Law
1305 Prairie, Suite 300
Houston, TX 77002

RE: Application for Renewal of Admission to Practice

Dear Mr. Fisch

This letter is to inform you that the Attorney Admissions Committee has made a decision on your application for renewal of admission of the Southern District of Texas.

The committee recommends that your application for renewal be denied.

You may request a hearing within ten days to show why the renewal application for admission should be granted. The hearing will be conducted under the procedures for disciplinary matters.

If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,

MICHAEL N. MILBY,
Clerk

/s/_____
Nancy L. Perez Attorney
Admissions Liaison

ABRAHAM M. FISCH
ATTORNEY AND COUNSELOR AT LAW
1305 PRAIRIE, SUITE 300
HOUSTON, TX 77002
PH: 713-222-8777
FAX: 713-222-7556

UNITED STATES
COURTS
SOUTHERN
DISTRICT OF TEXAS
FILED
March 7, 2007

Michael M. Milby,
Clerk of Court

March 6th, 2007 Sent via hand delivery

The Honorable Hayden Head, Chief Judge
For The Southern District of Texas
Attention: Ms. Nancy Perez
Attorney Admissions Liaison

Re: Administrative Hearing Request

Dear Judge Head:

I am writing this letter to formally request an administrative hearing in reference to my admission renewal to the Southern District of Texas. Thank you for your consideration in this matter.

Very truly yours,

/s/_____
ABRAHAM M. FISCH

NOTICE OF INTENT TO ACCEPT RECOMMENDATION BY CHIEF JUDGE HAYDEN HEAD AND ATTORNEY FISCH'S REQUEST FOR A HEARING UNDER THE LOCAL RULES

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

MICHAEL N. MILBY
CLERK OF COURT
P.O. BOX 61010
Houston, TX 77208

(713) 250-5400
Fax (713) 250-5014
www.txs.uscourts.gov

August 24, 2007

Mr. Abraham M. Fisch
1305 Prairie, Suite 300
Houston, TX 77002

Re: Attorney Admission

Dear Mr. Fisch:

Enclosed please find a copy of an Notice of Intent to Accept Recommendation signed by Chief Judge Hayden Head.

Sincerely,

MICHAEL N. MILBY, Clerk

/s/_____
Rhonda Hawkins
Attorney Admissions Liaison

/rh
Enclosure
cc: Ms. Jeannette M. Duer
111 West 15th Street
Houston, TX 77042

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

IN RE:	§
COMPLAINT AGAINST	§
ABRAHAM FISCH	§
	§

NOTICE OF INTENT TO ACCEPT RECOMMENDATION

Notice is given to the applicant, Abraham M. Fisch, that, as Chief Judge of this court, I intend to accept the recommendation of the Attorney Admission Committee recommending denial of his admission to this court, unless within ten (10) days Mr. Fisch files a request for a hearing.

ORDERED this the 22 of August, 2007.

/s/_____
HAYDEN HEAD
CHIEF JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

IN RE:	§
COMPLAINT AGAINST	§
ABRAHAM FISCH	§
	§
	§

REQUEST FOR HEARING PERSUANT TO THE RULES OF DISCIPLINE – UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

TO THE HONORABLE HAYDEN HEAD,

UNITED STATES DISTRICT JUDGE FOR THE

SOUTHERN DISTRICT OF TEXAS:

NOW COMES, the Movant, ABRAHAM M.

FISCH, and would respectfully show the following:

I.

Background

On August 22nd, 2007, the Chief Judge signed an order announcing his intent to follow the recommendation of the Attorney Admissions Committee recommending denial of Movant's application for readmission to the court, unless within ten(10) days Movant filed a request for hearing. A copy of that order is attached hereto and incorporated by reference as Exhibit 1. Movant requests such a hearing. Movant further requests that he be afforded all his due process rights, including those manded in the adoptio of the amendment to the Rules of Discipline of the Local Rules of Procedure, signed by the Chief Judge on June 17th 2007. A copy of said rules are atached hereto and incorporated by reference as Exibit 2. Movant specifically requests notice of all charges and an opportunity to respond as delineated in Rules 5(a) through 5(d) of the Rules of Discipline for the Southern District of Texas.

Respectfully submitted

/s/_____

Abraham Fisch
TBA No: 0703990
1305 Prairie, Suite 300
Houston, TX 77002
(713) 222-8777
(713) 222-7556 FAX

Attorney in Charge

PETITIONER'S MOTION TO PROCEED *PRO SE* AND TO RE-BRIEF

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-20760

U.S. COURT OF APPEALS
FILED
OCT 07 2009
CHARLES R. FULBRUGE
III

THE UNITED STATES OF AMERICA,
Appellee,

v.

On Appeal from the United States District Court for the Southern District of Texas-Houston Division; Cause No. 4:06-CR-00098-1

MICHAEL D. GOODSON,
Appellant.

MOTION TO DISMISS COURT APPOINTED COUNSEL, MOTION TO PROCEED PRO SE, AND MOTION TO RE-BRIEF

TO THE HONORABLE JUDGES OF THE FIFTH CIRCUIT:

COMES NOW, the undersigned Appellant and respectfully requests that the Court allow him to dismiss court-appointed appeal counsel and allow him to proceed pro se in the above cause. In support

thereof, Appellant would show unto the Court the following:

I.

Appellant has been represented by court-appointed counsel Joe Salinas, Texas Bar #00786219. I previously retained a well known appellate lawyer to file a mandamus in this Court. I filed a mandamus in this Court under cause number 07-20497. (Exhibit A). I informed court-appointed counsel of the previously filed mandamus and asked court-appointed counsel to include in his appellate brief the arguments previously raised in my mandamus appeal. (Exhibit A). I was shocked to learn that court-appointed counsel did not do so. (Exhibit B). I have very meritorious constitutional claims that need to be raised in this appeal. My being deprived of my right to counsel of choice qualifies as structural error, is not subject to

harmless-error analysis, and entitles me to automatic reversal on appeal. United States v. Gonzalez-Lopez, ---U.S.---, 126 S. Ct. 2557, 2564 (2006). My court-appointed counsel did not even cite Gonzalez-Lopez in my brief !!! Furthermore, my court-appointed counsel did not raise the issue of the district court upwardly departing my sentence. There can be no rational strategy for my court-appointed counsel's failure to raise these claims. Court-appointed counsel is rendering ineffective assistance on my appeal. It is the duty of appellate counsel to research facts and law and raise meritorious arguments based on controlling precedent. United States v. Phillips, 210 F.3d 345, 348 (5th Cir.2000); United States v. Conley, 349 F.3d 837, 8841 (5th Cir.2003). I do not know why court-appointed counsel waived all of the claims presented in my mandamus.

II.

I am, therefore, dismissing (firing) my court-appointed counsel and requesting the Court to allow me to proceed pro se and to file my own appeal brief so that I can raise those meritorious issues that court-appointed counsel did not raise. I request that the Court set a new briefing deadline of at least 30 days so that I may write and file my own brief.

WHEREFORE, PREMISES CONSIDERED, the Appellant prays this Honorable Court will grant this motion in all things.

Respectfully submitted,

/s/_____

MICHAEL D. GOODSON
REG. #02492-088
FCI YAZOO CITY
MEDIUM
FEDERAL
CORRECTIONAL
INSTITUTION
P.O. BOX 5888
YAZOO CITY, MS 39194

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-20760

THE UNITED STATES OF AMERICA,
Appellee,

v.

On Appeal from the United States District Court for the Southern District of Texas-Houston Division; Cause No. 4:06-CR-00098-1

MICHAEL D. GOODSON,
Appellant.

ORDER

On this day came to be heard Appellant's Motion to Dismiss Court-Appointed Counsel, Motion to Proceed Pro Se, and Motion to Re-Brief and the Court having considered the same, it is hereby

_____GRANTED and Appellant's brief is due on _____, 2009.

_____DENIED

SIGNED on this the _____ day of _____, 2009.

_____
UNITED STATES JUDGE FOR THE FIFTH CIRCUIT COURT OF APPEALS

THE STATE OF MISSISSIPPI §

§

COUNTY OF YAZOO §

AFFIDAVIT

Before me, the undersigned authority, on this date personally appeared MICHAEL D. GOODSON, who, having been duly sworn by me, stated upon his oath that the foregoing facts are true:

"My name is MICHAEL D. GOODSON and I am qualified to make this affidavit. I am making this affidavit of my own free will. I have not been induced or threatened or promised anything in return for making this affidavit, nor have I received anything in return for making this affidavit. I am personally acquainted with the facts herein and solemnly swear and affirm that all of the facts set forth herein are true and correct."

"I am presently incarcerated pursuant to a judgment in the Southern District of Texas in cause number CR-H-06-00098-1. I retained an appeal attorney to file a mandamus against Judge Lynn Hughes in Cause number 07-20497 in the Fifth Circuit Court of Appeals. By the time I was convicted and needed to file an appeal, I was unable to afford retained counsel on appeal. I asked for, and was appointed, court-appointed counsel Joe Salinas. Mr. Salinas was specifically informed about my previously filed mandamus and was requested to

include the arguments previously raised in my mandamus and to put them in my brief on appeal. He did not do so. I hereby dismiss and fire Joe Salinas and wish to proceed pro se and to re-brief my case. I intend to raise those issues previously raised in my mandamus along with other issues I find that were not raised by court-appointed counsel. The facts set forth in the accompanying motion are both true and correct."

/s/ Michael D. Goodson

_____

AFFIANT MICHAEL D. GOODSON

/s/ [signature unreadable], Case Manager
Authorized by Act of July 7, 1955,
amended, to administer oaths (18 U.S.C. 4004)
10/1/2009, Date.

SUBSCRIBED AND SWORN to, before me, the undersigned authority, this _____ day of _____, 2009.

_____

Notary Public

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

A

No. **07-20497**

In re MICHAEL D. GOODSON,
Petitioner

On Writ of Mandamus from the United States District Court for the Southern District of Texas - Houston Division; Cause No. CR-H-06-00098-01.

PETITION FOR WRIT OF MANDAMUS

ORAL ARGUMENT REQUESTED

U.S. COURT OF APPEALS
FILED
JUL 2 -2007
CHARLES R. FULBRUGE III
CLERK

R. Scott Shearer
TBA No. 00786464
929 Preston, Ste. 200
Houston, TX 77002
(713) 254-5629
(713) 224-2889 (FAX)

Counsel for Petitioner on Writ of Mandamus

June 27, 2007

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ISSUE ONE: MAY A DISTRICT COURT REMOVE DEFENSE COUNSEL OF CHOICE *SUA SPONTE* AND WITHOUT A HEARING BASED UPON THE

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No. 08-20760

IN THE UNITED STATE COURT OF APPEALS
FOR THE FIFTH CIRCUIT

B

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MICHAEL D. GOODSON

Also known as Mike Goodson
Defendant-Appellant

On Appeal from the United States District Court
For the Southern District of Texas
Houston Division, 4:06cr00098-001
Hon. Lynn N. Hughes, Presiding

BRIEF FOR APPELLANT

/s/_____
Joe A. Salinas, III
Texas Bar No. 00786219
Attorney at Law
P.O. Box 1305
Houston, Texas 77251-1305
Telephone: (713) 227-7700
Fax: (713) 227-4510

STATEMENT OF JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. § 1291, as an appeal from a final judgment of conviction and sentence in the United States District Court for the Southern District of Texas, and under 18 U.S.C. § 3742, as an appeal of a sentence imposed under the Sentencing Reform Act of 1984.

The judgment appealed from was entered on the docket on November 9, 2008. Mr. Goodson filed a *pro se* notice of appeal and request for appointment of counsel that was entered on November 20, 2008. This appeal is therefore timely.

See Fed. R. App. P. 4(b)(1)(a); 26(a)(1) and 26(a)(2).

STATEMENT OF THE ISSUES

ISSUE ONE: The Sixth Amendment right to self-representation includes the right to remain in the control f the defense presented and to be perceived by the jury as in control of the defense presented. Mr. Goodson exercised his Sixth Amendment right to self-

representation at trial. But the district court excused each of the witnesses at trial following their testimony on behalf of the government without asking Mr. Goodson if he had any questions of the witness. Was Mr. Goodson's Sixth Amendment right to appear in control of his defense in the eyes of the jury violated?

ISSUE TWO: The Sixth Amendment right to representation by counsel extends to sentencing proceedings. The focus of Mr. Goodson's waiver of counsel was on his right to counsel *at trial*. Mr. Goodson never asserted his Sixth Amendment right to self-representation at sentencing. Did Mr. Goodson's waiver of his Sixth Amendment right to counsel include a waiver of his right to counsel at sentencing?

ISSUE THREE: For a two level increase to apply under USSG § 2B1.1(b)(13)(A) the defendant must derive more than $1,000,000 in gross receipts from a

"financial institution." The definition of "financial institution" at the time of the offence in this case did not include "mortgage lending businesses." Was it error to enhance Mr. Goodson's sentence by two levels for receipt of more than $1,000,000 from a "financial institution" when mortgage lending businesses were not defined as a "financial institution" at the time of the offence and the evidence does not establish that Mr. Goodson received over $1,000,000 from entities falling within the definition of "financial institution"?

STATEMENT OF THE ISSUES

A. Proceedings Below.

A Fourth Superceding indictment charged Mr. Goodson with conspiracy to

---

[1]Undersigned counsel has prepared this brief in reliance on the electronic record on appeal. Any

reference to a document filed in this case (including the transcripts of the relevant proceedings) will be made by the "USCA5" page number, or numbers, of the consecutively paginated electronic record (R._____). All references to the Presentence Report will be made in the following manner. PSR [paragraph number].

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above foregoing motion has been delivered to the U.S. Attorney's Office on this the _____ day of _____, 2009 by mailing same to the following addresses:

U.S. ATTORNEY'S OFFICE
APPELLATE DIVISION
910 TRAVIS, SUITE 1500
HOUSTON, TX 77208-1129

/s/_____
MICHAEL D. GOODSON
REG. #02492-088
FCI YAZOO CITY
MEDIUM
FEDERAL
CORRECTIONAL
INSTITUTION
P.O. BOX 5888
YAZOO CITY, MS 39194

REPLY TO COURT-APPOINTED COUNSEL'S LETTER WITH ATTACHED AFFIDAVIT OF ATTORNEY FISCH

MICHAEL D. GOODSON
REG. #02492-088
FCI YAZOO CITY MEDIUM
FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 5888
YAZOO CITY, MS 39194

October 30, 2009

Charles R. Fulbruge, III, Clerk
United States Court of Appeals
600 Maestri Place
New Orleans, LA 70130

U.S. COURT OF APPEALS
FILED
NOV – 9 2009
CHARLES R. FULBRUGE III
CLERK

Re: *United States v. Michael D. Goodson*; No. 08-20760; Reply to the response of former court-appointed counsel Joe A. Salinas, III.

Dear Sir,

I have received a copy of my former court-appointed attorney's response to my motion to proceed pro se. I am compelled to write this letter to respond to same. My court-appointed counsel has misled this Court about the nature of my former retained attorney's status in the Southern District of Texas. In his response at page 1, Mr. Salinas claims

that he did not raise my claims under United States v. Gonzalez-Lopez, ---U.S.---, 126 S. Ct. 2557, 2564 (2006) because my former retained counsel Mr. Fisch "was not a member of the bar." On page 3 of his response, Mr. Salinas claims that Mr. Fisch was removed from my case because "his application for renewal of membership to the Southern District of Texas bar was denied." Both of these statements are patently false. Mr. Fisch has been a member of the bar of the Southern District of Texas since 1987. It is true that a committee recommended that Mr. Fisch's renewal application be denied, but this recommendation was not followed by Chief Judge Hayden Head. (See attached). Mr. Fisch continues to practice in the Southern District and appears to be welcome in every court but that of Judge Hughes. I have attached an affidavit from Mr. Fisch that was filed in the Southern District of Texas in cause number H-09-565-CR; United States v. Dennis

Pharris. I ask the Court to take judicial notice of this affidavit as it speaks directly to the issue of Mr. Fisch's status in the Southern District of Texas.

As my retained counsel was in fact a member of the bar, his forced removal from my case was unlawful and my court-appointed counsel should have raised the issue on appeal. Because he did not do so, I ask that I be allowed to assert these and other claims on my own.

Respectfully submitted,

/s/_____

MICHAEL D. GOODSON
REG. #02492-088
FCI YAZOO CITY
MEDIUM
FEDERAL
CORRECTIONAL
INSTITUTION
P.O. BOX 5888
YAZOO CITY, MS 39194

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

AFFIDAVIT

Before me, the undersigned authority, on this date personally appeared ABRAHAM MOSES FISCH, who, having been duly sworn by me, stated upon her oath that the foregoing facts are true:

"My name is ABRAHAM MOSES FISCH and I am qualified to make this affidavit. I am making this affidavit of my own free will. I have not been induced or threatened or promised anything in return for making this affidavit, nor have I received anything in return for making this affidavit. I am personally acquainted with the facts herein and solemnly swear and affirm that all of the facts set forth herein are true and correct."

"The Honorable Nancy Atlas has asked that I compose an affidavit to determine whether I am to be allowed to represent DENNIS PHARRIS in Cause No. H-09-56 in the Southern District of Texas. The Court's order alleges that I have been denied admission to the Southern District of Texas 'on several occasions.' I must respectfully disagree with the court's language.

I was originally admitted to the bar of the Southern District of Texas in the late 1980's. On April 19, 2006 the Respondent Judge Lynn N. Hughes entered an order removing me as counsel of record for MICHAEL D. GOODSON in Cause No. CR-H-06-00098-01. On June 30, 2006, Judge Hughes reversed himself and issued an, 'Order on Reconsideration'

allowing me to represent Defendant Goodson. Some eight months passed with me representing Defendant Goodson until February 28, 2007, at which time Judge Hughes reversed his reversal and again ordered me removed from Defendant Goodson's case. The issue of my unlawful removal as counsel of record in Judge Hughes' court is currently on appeal before the 5th Circuit Court of Appeals in Cause Number 08-20760; *United States v. Michael D. Goodson.*

My difficulties with Judge Hughes only proceeded as far as a 'recommendation' that I be denied re-admission. (Exhibit 1). On August 22, 2007, Chief Justice Hayden Head sent a notice indicating that he intended to follow said recommendation, ' . . . unless within ten (10) days Mr. Fisch files a request for a hearing.' (Exhibit 1). I requested a hearing on the matter before the Chief Justice of the Southern District of Texas on August 31, 2007, which was within ten days. (Exhibit 2). To this date no hearing has been forthcoming. Since it has been more than two years since I made my request for a hearing, I would argue that my application for re-admission has been *de facto* approved. It is my professional opinion that I remain licensed to practice in the Southern District of Texas until and unless a hearing is held and a judgment of suspension or disbarment is issued. See U.S. DIST. CT. S.D. TEX. Local Rules of Discipline (A) - (G). (effective June 19, 2007).

Since my difficulties with Judge Hughes, I have been privileged to practice before the Honorable David Hittner (Cause No. 4:06-CR-00171-1); the Honorable Vanessa Gilmore (Cause No. 4:06-CR-

00213-2); and before the Honorable Judge Atlas herself (Cause No. 4:07-CR-00038-1).

I am an attorney in good standing licensed in the State of Texas. I am counsel of record for DENNIS PHARRIS in the 351st district court of Harris County, Texas in cause numbers 1210228, 1210229, 0991356, and 1031225. I have represented DENNIS PHARRIS in the 351st district court since February of 2008. As an ancillary matter, I agreed to handle a federal case for DENNIS PHARRIS originating in the Middle District of Tennessee.

I was not paid separately to represent Mr. Pharris in his federal matter and I agreed to do so without additional payment. I have spent approximately twenty-five [25] hours on Mr. Pharris' federal case. These hours were spent in telephone conversations with Mr. Pharris' lawyer in Tennessee; in negotiating a Rule 20 transfer from Tennessee to Houston; in conversations with Mr. Pharris; in conversations with the Government; and in negotiating a plea on behalf of Mr. Pharris."

/s/ Abraham M. Fisch

_____

AFFIANT

SUBSCRIBED AND SWORN to, before me, the undersigned authority, this 9th day of October, 2009.

/s/ Rhonda S. Hawkins

_____

Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

MICHAEL N. MILBY
CLERK OF COURT
P.O. BOX 61010
Houston, TX 77208

(713) 250-5400
Fax (713) 250-5014
www.txs.uscourts.gov

August 24, 2007

Mr. Abraham M. Fisch
1305 Prairie, Suite 300
Houston, TX 77002

Re: Attorney Admission

Dear Mr. Fisch:

Enclosed please find a copy of an Notice of Intent to Accept Recommendation signed by Chief Judge Hayden Head.

Sincerely,

MICHAEL N. MILBY, Clerk

/s/_____
Rhonda Hawkins
Attorney Admissions Liaison

/rh
Enclosure
cc: Ms. Jeannette M. Duer
111 West 15th Street
Houston, TX 77042

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

IN RE:	§
COMPLAINT AGAINST	§
ABRAHAM FISCH	§
	§

NOTICE OF INTENT TO ACCEPT RECOMMENDATION

Notice is given to the applicant, Abraham M. Fisch, that, as Chief Judge of this court, I intend to accept the recommendation of the Attorney Admission Committee recommending denial of his admission to this court, unless within ten (10) days Mr. Fisch files a request for a hearing.

ORDERED this the 22 of August, 2007.

/s/_____
HAYDEN HEAD
CHIEF JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

IN RE:	§
COMPLAINT AGAINST	§
ABRAHAM FISCH	§
	§
	§

REQUEST FOR HEARING PERSUANT TO THE RULES OF DISCIPLINE – UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

TO THE HONORABLE HAYDEN HEAD, UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS:

NOW COMES, the Movant, ABRAHAM M. FISCH, and would respectfully show the following:

I.

Background

On August 22nd, 2007, the Chief Judge signed an order announcing his intent to follow the

recommendation of the Attorney Admissions Committee recommending denial of Movant's application for readmission to the court, unless within ten(10) days Movant filed a request for hearing. A copy of that order is attached hereto and incorporated by reference as Exhibit 1. Movant requests such a hearing. Movant further requests that he be afforded all his due process rights, including those manded in the adoptio of the amendment to the Rules of Discipline of the Local Rules of Procedure, signed by the Chief Judge on June 17th 2007. A copy of said rules are atached hereto and incorporated by reference as Exibit 2. Movant specifically requests notice of all charges and an opportunity to respond as delineated in Rules 5(a) through 5(d) of the Rules of Discipline for the Southern District of Texas.

Respectfully submitted

/s/_____

Abraham Fisch
TBA No: 0703990
1305 Prairie, Suite 300
Houston, TX 77002
(713) 222-8777
(713) 222-7556 FAX

Attorney in Charge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

IN RE:	§	
	§	
ADOPTION OF	§	
AMENDMENT TO	§	GENERAL ORDER
RULES OF DISCIPLINE,	§	NO. 2007-8
APPENDIX A, OF THE	§	
LOCAL RULES OF	§	
PROCEDURE	§	

ORDER

The Court earlier proposed amending the Rules of Discipline, Appendix A, of the Local Rules of Procedure. The proposed amendments having now been approved by the Judicial Council of the Fifth Circuit, through its Rules Committee, the Court adopts the attached amended Rules of Discipline.

These amended Rules of Discipline are effective immediately.

Signed at Corpus Christi, Texas this 17th day of June, 2007.

/S/_____
HAYDEN HEAD
CHIEF JUDGE

Attach: Amended Rules of Discipline

APPENDIX A

RULES OF DISCIPLINE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
(Effective June 19, 2007)

Rule 1. *Standards of Conduct.*

A. Lawyers who practice before this court are required to act as mature and responsible professionals, and the minimum standard of practice shall be the Texas Disciplinary Rules of Professional Conduct.

B. Violation of the Texas Disciplinary Rules of Professional Conduct shall be grounds for disciplinary action, but the court is not limited by that code.

Rule 2. *Conviction of Crime.*

A. A lawyer convicted of a felony or a misdemeanor involving moral turpitude or controlled substance shall promptly notify this court in writing and furnish to the clerk of court a certified copy of the judgment of conviction. A lawyer convicted of a felony

shall immediately cease practicing before this court pending further action by the court.

B. After the court has notice that a lawyer practicing before it has a conviction described in Rule 2 (A), it will follow the due process procedure in these rules to determine whether discipline should be imposed on the lawyer.

Rule 3. *Discipline by Another Court.*

A. A lawyer disciplined by another court in the United States shall promptly notify this court in writing and furnish to the clerk of the court a certified copy of the order of discipline. A lawyer suspended or disbarred by another court in the United States shall immediately cease to practice before this court. A lawyer subjected to a reprimand may continue to practice, pending review by this court.

B. A final adjudication in another court that the lawyer has been guilty of an offense leading to the action referred to in Rule 3A shall establish conclusively the conduct for the purposes of proceeding in this court unless the lawyer requests a

hearing and carries the burden of showing that such prior action lacked due process.

Rule 4. *Disbarment by Consent or Resignation in Other Courts.*

A. A lawyer who is disbarred or suspended by consent or agreement or who resigns from the bar of another court in the United States to avoid further discipline must advise this court in writing and immediately cease to practice before this court. The lawyer shall furnish a certified copy of the disciplinary order or letter of resignation to the clerk.

B. Upon request by the lawyer, the court will follow the due process procedure in these rules to determine under what conditions the lawyer might continue to practice in this court.

Rule 5. *Charges of Misconduct Warranting Discipline.*

A. Charges that any lawyer of this bar has engaged in conduct which might warrant disciplinary action shall be brought to the attention of the court by a writing addressed to the chief judge with a copy to the clerk of court.

B. Upon receipt of a charge that is not frivolous, the chief judge shall order the clerk to file the charge and randomly assign it to a district judge for review to determine whether further disciplinary proceedings should be held. The reviewing judge shall notify the charged lawyer of the charges made and give that lawyer an opportunity to respond. If the charge is made by a bankruptcy judge or is one occurring in bankruptcy court, the clerk may assign the charge to a bankruptcy judge, who may serve as reviewing judge. The chief judge may elect to forego the review procedures of this paragraph if, in the judgment of the chief judge, the information provided to the chief judge with the charge is sufficiently clear to warrant further disciplinary proceedings of paragraph 5 (C), et seq.

C. After review, the judge will, by written report, recommend to the chief judge whether further disciplinary proceedings should be heard and the charges to be heard. If further proceedings are recommended, the chief judge shall order further hearings to be held before a district judge, who may have been the reviewing judge.

D. The hearing judge will give at least 14 days notice to the charged lawyer of the time of the hearing, the charges and the right to counsel at the hearing. The hearing shall be held on the record in open court as a miscellaneous proceeding. Rule 1101(d)(3), Federal Rules of Evidence applies, and all witnesses shall be sworn.

E. In the hearing of charges before the hearing judge, the prosecution shall be by an attorney specially appointed by the hearing judge. Costs of the prosecutor and fees allowed by the hearing judge may be paid from the Attorney Admissions Fund.

F. The hearing judge shall file his judgment, providing a copy to the chief judge and the lawyer. If the hearing judge determines that disciplinary action should be taken, the judge shall make findings of violations and order either permanent disbarment, a suspension, a written or oral reprimand and whether such should be public or private with such conditions as the judge may order.

G. The decision of the hearing judge is final, except that, within 14 days, the lawyer may appeal the judgment by filing a notice of appeal. A panel of three

district judges of the court, randomly assigned, will hear the appeal. The appeal shall be on the record developed at the hearing. Facts found by the hearing judge are not reviewable unless clearly erroneous. The law determined by the hearing judge is reviewable de novo. The decision of the panel is final. There is no en banc review.

H. If the membership in the Southern District Bar of the lawyer being disciplined was not current at the time of the court order imposing discipline, the order may include that the lawyer shall not reapply for admission except under such conditions as the court may impose.

Rule 6. *Reinstatement.*

A. A suspended or disbarred lawyer must apply to this court for reinstatement before resuming practice before this court. A lawyer who has been suspended may apply for

ORDER DENYING PETITIONER'S MOTION TO PROCEED *PRO SE*

IN THE UNITED STATE COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-20760

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MICHAEL D. GOODSON, Also known as Mike Goodson

Defendant-Appellant

United States Court of Appeals
Fifth Circuit
FILED
October 28, 2009

Charles R. Fulbruge III
Clerk

Appeal from the United States District Court
For the Southern District of Texas, Houston

O R D E R:

IT IS ORDERED that appellant's motion to dismiss his court appointed counsel, Joe. A. Salinas, III, and to allow him to proceed pro se is DENIED.

IT IS FURTHER ORDERED that appellant's motion to give him 30 days to file a new brief is DENIED as unnecessary.

/s/ E. Grady Jolly

E. GRADY JOLLY
UNITED STATES
CIRCUIT JUDGE

CHIEF JUDGE HINOJOSA'S ORDER OF AUGUST 26, 2010 DIRECTING THAT ATTORNEY FISCH BE AFFORDED A HEARING UNDER THE LOCAL DISCIPLINARY RULES

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

IN RE:	)	
	)	
	)	MISC. NO. 4:07-520
	)	
ABRAHAM MOSES FISCH	)	

ORDER

Before the Court is the Renewal Questionnaire for Admission to Practice of Abraham Moses Fisch (hereinafter "Fisch"), and after review of the matters filed in te above-referenced case, the undersigned is of the opinion that the case should be randomly assigned to a District Jude for the Houston Division of this Court for hearing.

The Court notes that Rule 83.1 of the Local Rules for the Southern District of Texas addresses admission to practice before the Court. Under said Rule, an attorney is required to reapply membership every five years. Rule 83.1.E. specifically provides

that if, after review of the application, the Court denies admission, the person not admitted may request a hearing conducted under the procedures set out by the Rules of Discipline for the Southern District of Texas. Pursuant to Rules 83.1.D., the Court has appointed a Committee on Admission to assist in the review of attorney admissions matters.

Here, in the initial review of Fisch's renewal application, the Chief Judge Hayden W. Head requested assistance from the Committee on Admissions. After considering the recommendation of the Committee, then Chief Judge Head indicated the Court's intent to deny the application to practice before the Southern District of Texas and gave Fisch the opportunity to request a hearing pursuant to Rule 83.1.E. Fisch has requested such a hearing.

Pursuant to Rules 5 and 10 of the Rules of Discipline for the Southern District of Texas, the undersigned directed the Clerk of the Court to

randomly assign this matter to a District Judge of the Houston Division for a hearing and any further necessary action upon the request for renewal consistence with the Rules of Discipline for this District. Judge Ewing Werlein, Jr., was so assigned to this matter. However, as a result of his docket schedule, Judge Werlien informed the undersigned that he would bé unable to proceed with this matter.

It is, therefore, ORDERED that the Clerk of the Court randomly assign the matter to another District Judge of the Houston Division. Upon assignment by the Clerk, the randomly selected District Judge may proceed with any action on the renewal application of Mr. Fisch as is consistent with the Local Rules and Rules of Discipline for the Southern District of Texas.

DONE on the 26th day of August, 2010, at McAllen, Texas.

*/s/*_____

Ricardo H. Hinojosa
CHIEF U.S. DISTRICT JUDGE